

# A C T S

OF THE

# LEGISLATURE OF WEST VIRGINIA

AT ITS

FIFTEENTH SESSION,

Commencing January 12, 1881.



WHEELING:  
W. J. JOHNSTON, PUBLIC PRINTER.  
1881.

## ERRATA.

On page 71, section 110 of chapter 8, for "commissioner" read "commission."

On page 153, section 5 of chapter 14, the word "by" after the word "appointed," in first line, is a misprint. Read, "if any person appointed such surveyor refuse," etc.

On page 346, amended section 2 of chapter 75, in lines 11 and 12, for "franchise" read "franchisea."

On page 369, chapter 91, in the amending and re-enacting section, after the words "legislature of West Virginia" read the words "of the year 1879."





# ACTS OF 1881.

## CHAPTER I.

AN ACT fixing the time for holding the circuit courts in the several judicial circuits in this State.

[Passed January 31, 1881.]

Be it enacted by the Legislature of West Virginia :

### *First Circuit.*

1. That the circuit courts for the several counties of the first judicial circuit shall hereafter commence and be held as follows:

For the county of Hancock, on the fourth Monday in March, the fourth Monday in June, and the first Monday in November.

For the county of Brooke, on the first Monday in March, the first Monday in June, and the second Monday in October.

For the county of Ohio, on the second Monday in April, the first Monday in September, and the third Monday in November.

For the county of Marshall, on the first Monday in March, the first Monday in June, and the second Monday in October.

### *Second Circuit.*

2. That the circuit courts for the counties of the second judicial circuit shall hereafter commence and be held as follows:

For the county of Harrison, on the second Tuesday in January, the second Tuesday in May, and the second Tuesday in September.

**Marion.** For the county of Marion, on the first Tuesday in March, the first Tuesday in July, and the fourth Tuesday in November.

**Monongalia.** For the county of Monongalia, on the second Tuesday in February, the second Tuesday in June, and the second Tuesday in October.

*Third Circuit.*

**Third judicial circuit; commencement of terms of court in.** 3. The circuit courts for the several counties of the third judicial circuit shall hereafter commence and be held as follows:

**For Barbour county.** For the county of Barbour, on the first day in March, the sixth day in July, and the fifteenth day in October.

**Taylor.** For the county of Taylor, on the twentieth day in March, the twenty-fifth day in July, and the fourth day in November.

**Preston.** For the county of Preston, on the eighth day in April, the thirteenth day in August, and the twenty-fourth day in November.

**Tucker.** For the county of Tucker, on the tenth day in May, the third day in September, and the sixteenth day in December.

**Randolph.** For the county of Randolph, on the twentieth day in May, the fourteenth day in September, and the third day in January.

*Fourth Circuit.*

**Fourth judicial circuit; commencement of terms of court in.** 4. The circuit courts for the several counties of the fourth judicial circuit shall hereafter commence and be held as follows:

**For Wetzel county.** For the county of Wetzel, on the third Tuesday in January, the third Tuesday in May, and the third Tuesday in September.

**Ritchie.** For the county of Ritchie, on the third Monday in February, the third Monday in July, and the third Monday in October.

**Doddridge.** For the county of Doddridge, on the third Monday in March, the third Monday in August, and the third Monday in November.

**Tyler.** For the county of Tyler, on the second Monday in April, the second Monday in June, and the second Monday in December.

*Fifth Circuit.*

**Fifth judicial circuit; commencement of terms of court in.** 5. The circuit courts for the several counties of the fifth judicial circuit shall hereafter commence and be held as follows:

**For Wood county.** For the county of Wood, on the second Monday in April, the second Monday in August, and the second Monday in December.

For the county of Pleasants, on the second Monday in Pleasants.  
March, the second Monday in July, and the second Monday in October.

For the county of Wirt, on the fourth Monday in Wirt.  
March, the fourth Monday in July, and the fourth Monday in October.

#### *Sixth Circuit.*

6. The circuit courts for the several counties of the Sixth judicial circuit; commencement of terms of court in.  
sixth judicial circuit shall hereafter commence and be held as follows:

For the county of Jackson, on the first day in March, For Jackson county.  
the first day in August, and the first day in November.

For the county of Roane, on the fifteenth day in March, Roane.  
the twentieth day in August, and the twentieth day in November.

For the county of Clay, on the third Monday in May, Clay.  
the third Monday in September, and the third Monday in December.

For the county of Calhoun, on the twentieth day in Calhoun.  
February, the twentieth day in June, and the twentieth day in October.

For the county of Gilmer, on the fifth day in February, Gilmer.  
the fifth day in June, and the fifth day in October.

#### *Seventh Circuit.*

7. The circuit courts for the several counties of the Seventh judicial circuit; commencement of terms of court in.  
seventh judicial circuit shall hereafter commence and be held as follows:

For the county of Mason, on the first Monday in February, For Mason county.  
the first Monday in May, and the first Monday in September.

For the county of Putnam, on the fourth Monday in Putnam.  
February, the fourth Monday in May, and the second Monday in November.

For the county of Kanawha, on the second Monday in Kanawha.  
March, the second Monday in June, and the first Monday in December.

#### *Eighth Circuit.*

8. The circuit courts for the several counties of the Eighth judicial circuit; commencement of terms of court in.  
eighth judicial circuit shall hereafter commence and be held as follows:

In the year 1881, for the county of Cabell, on the first For Cabell county.  
Monday in March, the first Monday in June, and the first Monday in October.

For the county of Wayne, on the fourth Monday in Wayne  
March, the fourth Monday in June, and the fourth Monday in October.

- Lincoln.** For the county of Lincoln, on the third Monday in April, the third Monday in July, and the third Monday in November.
- Logan.** For the county of Logan, on the first Monday in May, the first Monday in August, and the first Monday in December.
- 1882.** And in the year 1882, and in each year thereafter,
- Lincoln.** For the county of Lincoln on the first Monday in February, the first Monday in June, and the first Monday in October.
- Wayne.** For the county of Wayne, on the third Monday in February, the third Monday in June, and the third Monday in October.
- Cabell.** For the county of Cabell, on the first Monday in March, the first Monday in August, and the first Monday in November.
- Logan.** For the county of Logan, on the fourth Monday in March, the fourth Monday in August, and the fourth Monday in November.

*Ninth Circuit.*

- Ninth judicial circuit, commencement of terms of court in. For Mercer county.** 9. The circuit courts for the several counties of the ninth judicial circuit shall hereafter commence and be held as follows:
- For the county of Mercer, on the first Monday in March, the first Monday in June, and the first Monday in October.
- Raleigh** For the county of Raleigh, on the Fourth Monday in March, the fourth Monday in June, and the fourth Monday in October.
- Boone.** For the county of Boone, on the first Monday in April, the first Monday in July, and the first Monday in November.
- Wyoming.** For the county of Wyoming, on the third Monday in April, the third Monday in July, and the third Monday in November.
- McDowell** For the county of McDowell, on the fourth Monday in April, the fourth Monday in July, and the fourth Monday in November.

*Tenth Circuit.*

- Tenth judicial circuit, commencement of terms of court in. For Summers county.** 10. The circuit courts for the several counties of the tenth judicial circuit shall hereafter commence and be held as follows:
- For the county of Summers, on the second Monday in February, the first Monday in May and the first Monday in September.
- Fayette.** For the county of Fayette, on the fourth Monday in February, the third Monday in May, and the third Monday in September.

For the county of Monroe, on the third Monday in Monroe.  
March, the first Monday in June, and the first Monday in  
October.

For the county of Pocahontas, on the first Monday in Pocahontas.  
April, the third Monday in June, and the third Monday  
in October.

For the county of Greenbrier, on the third Monday in Greenbrier.  
April, the fourth Monday in June, and the first Monday in  
November.

#### *Eleventh Circuit.*

11. The circuit courts for the several counties of Eleventh judi-  
cial circuit; com-  
mencement of  
termus in.  
the eleventh judicial circuit shall hereafter commence and  
be held as follows:

For the county of Upshur, on the second Monday in For Upshur  
county.  
February, the first Monday in June, and the first Monday  
in October.

For the county of Lewis, on the first Monday in March, Lewis.  
the third Monday in June, and the third Monday in Oc-  
tober.

For the county of Webster, on the first Monday in April, Webster.  
the first Monday in August, and the first Monday in No-  
vember.

For the county of Nicholas, on the Wednesday after the Nicholas.  
second Monday in April, on the Wednesday after the sec-  
ond Monday in August, and on the Wednesday after the  
second Monday in November.

For the county of Braxton, on the fourth Monday in Braxton.  
April, the fourth Monday in August, and the fourth Mon-  
day in November.

#### *Twelfth Circuit.*

12. The circuit courts for the several counties of the Twelfth judicial  
circuit; com-  
mencement of  
termus of court  
in.  
twelfth judicial circuit shall hereafter commence and be  
held as follows:

For the county of Hampshire, for the year 1881, on the For Hampshire  
county.  
first Tuesday in March, the fourth Tuesday in May, and  
the third Tuesday in September; and for the year 1882  
and thereafter, on the first Tuesday in February, the first  
Tuesday in May, and the third Tuesday in September.

For the county of Hardy, for the year 1881, on the Hardy.  
third Tuesday in March, the fifth Tuesday in May, and  
the first Tuesday in October; and for the year 1882 and  
thereafter, on the third Tuesday in February, the third  
Tuesday in May, and the first Tuesday in October.

For the county of Grant, for the year 1881, on the first Grant.  
Tuesday in April, the first Tuesday in June, and the  
third Tuesday in October; and for the year 1882, and  
thereafter, on the second Tuesday in March, the first Tues-  
day in June, and the third Tuesday in October.

For the county of Pendleton, for the year 1881, on the Pendleton.

third Wednesday in April, the third Wednesday in June, and the first Wednesday in November; and for the year 1882, and thereafter, on the Wednesday after the fourth Tuesday in March, on the second Wednesday in June, and on the first Wednesday in November.

Mineral.

For the county of Mineral, for the year 1881, on the first Tuesday in May, the first Tuesday in September, and the fourth Tuesday in November; and for the year 1882, and thereafter, on the second Tuesday in April, the first Tuesday in September, and the fourth Tuesday in November.

*Thirteenth Circuit.*

Thirteenth judicial circuit; commencement of terms of court in.

13. The circuit courts for the several counties of the thirteenth judicial circuit shall hereafter commence and be held as follows.

For Morgan county.

For the county of Morgan on the first Tuesday in January, the first Tuesday in April, and the second Tuesday in August.

Jefferson.

For the county of Jefferson, for the year 1881, on the second Tuesday in January, the third Tuesday in May, and the fourth Tuesday in August; and for the year 1882 and thereafter on the second Tuesday in February, on the third Tuesday in May, and on the fourth Tuesday in August.

Berkeley

For the county of Berkeley, for the year 1881, on the first Tuesday in February, the third Tuesday in April, and the second Tuesday in October; and for the year 1882 and thereafter on the second Tuesday in January, on the second Tuesday in April, and on the second Tuesday October.

Inconsistent acts repealed.

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

[Approved February 4, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER II.

AN ACT to organize the circuit courts in the first judicial circuit.

[Passed January 31, 1881.]

Be it enacted by the Legislature of West Virginia:

Organization of courts in first judicial circuit how held, etc.

1. In the first judicial circuit, court may be held in the same county or in different counties at the same time, or at different times, and a court in one county may

continue after the time provided by law for the commencement of a court in any other county of the circuit.

2. Either or both of the judges of the circuit may hold any regular, special or adjourned term of any court therein, and when both judges shall be present at any court, they may sit together for the purpose of making rules, making any appointments authorized to be made by the circuit court, assigning the business of the court to the respective judges, or transacting any business of the court for which it is proper in their opinion that they should sit together, or they may hold court separately, but no cause shall be tried or heard by the judges sitting together. In a county in which the two judges shall sit at the same time, but separately, the courts held by the respective judges, shall be designated as parts one and two of the circuit court of the county, and each shall have and exercise the same power, authority and jurisdiction as are or may be vested in circuit courts. Either of said parts may be held by a judge of another circuit, or by another person, in any case where the circuit court of the county might be held by such judge or person if there were but one judge of the first circuit. Either of said parts may be held at such place other than the court house, but in the same town, as may be appointed by its order, or by warrant of both judges, or of the judge assigned to hold such part. A copy of such order or warrant shall be posted by the clerk at the front door of his office, at the court house door, and at the place so appointed.

Judges may hold regular, special or adjourned terms  
When and for what judges of may sit together.  
May hold court separately.  
No causes to be tried or heard by judges sitting together.  
Courts, how designated.  
Power, authority and jurisdiction vested in each part.  
How either parts may be held.  
Where held, and by what authority or order.  
A copy of order to be posted by clerk, etc.

3. The clerk of the circuit court of such last mentioned county shall, when not present in person, cause a suitable deputy to attend the court and each part thereof, and shall cause proper record books to be provided and kept for each part of the court. Rules and all orders and proceedings of the judges sitting or acting together shall be entered on the order book of each part. The sheriff shall in person, or by deputy, attend the said court and each part thereof.

Clerk, duty of, when not present.  
Deputy.  
Rules, order and proceedings to be entered on order book, by.  
Sheriff, attendance of.

4. Either part of the court may order jurors and witnesses in attendance upon it to attend the other part, and such order may be enforced and disobedience thereof punished by either part.

Jurors and witnesses; ordering of.  
How enforced.

5. As early as convenient in each year the judges of the first circuit shall designate the courts to be held by each judge during the year, and the courts at which both judges are to attend. Such designation shall be made in writing and a copy thereof signed by the judges shall be sent to each clerk of a circuit court in the circuit, and by him be entered upon his law order book. Such designa-

Courts to be held by each judge; when determined.  
Designation of courts to be held to be in writing; to whom sent and how entered.



How changed and where sent and entered.

After first year what designation to courts, where one judge sits.

Classification of business; when and how.

May be re-arranged.

When one judge may aid in disposing of business assigned to the other.

Cases may be sent from one part of court to the other.

Presiding magistrate: when and how selected.

To alternate.

Vacancies, how provided for.

Provision for appointing the other judge presiding magistrate while one holds the office.

Every selection, order or appointment to be entered; where

tion may be changed during the year, both judges concurring, and a copy of the order or agreement making such change shall be sent to the clerk of each court affected thereby, and by him be entered upon his law order book. So far as consistent with the proper discharge of business, such designation after the first year, shall, as to courts where but one judge sits, provide that each judge shall hold those terms which were held by the other judge in the year next preceding.

6. As soon as possible at any term during which, or part of which, the judges are to sit at the same time, but separately, they shall classify, arrange and apportion the business of such term between the parts which they are respectively to hold, and shall cause a docket of the business in each part to be prepared; but such apportionment may be re-arranged during the term as may be convenient for dispatch of business. Whenever either judge shall not be occupied in the trial or hearing of a cause assigned to him, he shall as far as practicable aid in disposing of the business which may have been assigned to the other judge, to which end cases may be sent from one part of the court to the other, as the individual judges may agree and direct.

7. As soon as possible after this act takes effect, and thereafter as soon as possible after the beginning of each successive full term of office, the judges shall select by lot one of their number who shall be the presiding magistrate of the circuit, and of the circuit courts held therein, for the first year of the then current term of office. The next year the other judge shall be the presiding magistrate, and so for alternate years throughout their term.

8. If either judge ceases to be a judge of the circuit, the other judge shall thereupon have and exercise the powers and discharge the duties conferred upon and required of the two judges acting jointly until the vacancy is filled. If the presiding magistrate ceases to be a judge of the circuit, the other judge shall thereupon become the presiding magistrate until the vacancy is filled, when the new judge shall take the place of his predecessor and be the presiding magistrate during the years and parts of years for which such predecessor would have been presiding magistrate had he remained a judge of the circuit.

At any time while one judge is presiding magistrate, an order or appointment concurred in by both judges, may make the other judge the presiding magistrate in his stead for a specified time, or until further order or appointment of the two judges made with like concurrence.

Every selection, order or appointment made under this section, shall be entered on the law order book of each circuit court in the circuit.

9. In all cases of difference between the judges as to any matter before them jointly for determination, whether in court or not, the opinion of the presiding magistrate shall prevail, unless the matter be one as to which the concurrence of both the judges is expressly required.

Difference as to matters before the judges, jointly; how determined.

Opinion of presiding magistrate to prevail; unless etc.,

10. Where there are two parts of the circuit court the presiding magistrate shall hold part number one.

Presiding magistrate; what part of court to hold.

11. In addition to the ordinary power of making rules, the court of any county in the first judicial circuit, may make such other rules not inconsistent with law, as may be proper or necessary in view of the peculiar organization of the court, and may have been concurred in by both judges of the circuit.

Rules; power to make.

[Approved February 3, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

### CHAPTER III.

AN ACT to amend and re-enact chapter one hundred and twelve of the Code of West Virginia, concerning circuit courts.

[Passed January 27, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That chapter one hundred and twelve of the Code of West Virginia be, and the same is hereby amended and re-enacted, so as to read as follows:

Code amended.

### CHAPTER CXII.

#### OF THE CIRCUIT COURTS.

*Of the Circuits, and the re-arrangement thereof.*

1. The judicial circuits, as prescribed by section thirteen of article eight of the Constitution of this State as amended, shall be and remain as so prescribed until re-arranged by the Legislature in pursuance of section fourteen of said article eight.

Judicial circuits; arrangement of.

*Jurisdiction of Circuit Courts.*

2. The circuit court shall have the supervision and control of all proceedings before justices and other inferior courts.

Jurisdiction.

Powers and duties.

Original and general jurisdiction.

Appellate jurisdiction.

To have such other jurisdiction as may be prescribed by law.

rior tribunals, by *mandamus*, prohibition and *certiorari*. They shall, except in cases confined exclusively by the Constitution to some other tribunal, have original and general jurisdiction of all matters at law, where the amount in controversy, exclusive of interest, exceeds fifty dollars; of all cases of *habeas corpus*, *mandamus*, *quo warranto* and prohibition; and of all cases in equity, and of all crimes and misdemeanors. They shall have appellate jurisdiction in all cases, civil and criminal, where an appeal, writ of error or supersedas may be allowed to the judgment or proceedings of any inferior tribunal. They shall also have such other jurisdiction, whether supervisory, original, appellate or concurrent, as is or may be prescribed by law.

*Regular Terms*—*Judge of one Circuit may hold Court in another.*

Regular terms; three each year.

Judge of one circuit may hold court in another; when.

3. There shall be at least three terms of the circuit court every year in each county, commencing at such times as may be prescribed by law. A judge of one circuit may, by arrangement with the judge of any other circuit, or when the office of judge in any other circuit is vacant, hold the courts in any such circuit.

#### *Adjourned Terms.*

Adjourned terms; when and how held.

Cases not disposed of to stand continued.

Jury summoned may be required to attend, or a new jury be drawn.

Witnesses to attend without being again summoned. Judgments, orders and decrees rendered before or during the day on which court adjourns to a future day, to be of full force and effect.

4. If any term of a circuit court is about to end without dispatching all its business, the judge thereof may, by an order entered of record, adjourn the holding of such court to any future day on which he is not required by law to hold a court in some other county; and all causes on the docket of said court, and not otherwise disposed of, shall stand continued to such adjourned day. The court may, in its discretion, require the jury summoned to attend such term, to attend as such on the adjourned day, or may require a new jury to be drawn and summoned in the manner required by law; and all witnesses summoned to attend in causes so continued to such adjourned term, are required to attend said term without being again summoned. All judgments, orders and decrees, rendered and made by such court before or during the day on which said court adjourns to such future day, as aforesaid, shall have the same force and effect in all respects as if said court had finally adjourned on that day.

#### *Special Terms.*

Special term; when held and how.

Grand and petit jury. Clerk; duty of as to such terms.

5. If any term of such court has ended without dispatching all its business, or if there be a failure to hold any term, the judge of the circuit may, by a warrant directed to the clerk, appoint a special term thereof and prescribe in such warrant whether a grand or petit jury is to be summoned to attend such term. The clerk shall enter the warrant in the order book of the court and inform the

prosecuting attorney and the sheriff of such appointment, post a copy of the warrant at the door of the court house, and issue all proper process returnable to such special term; and the sheriff shall execute such process, and summon a grand or petit jury, or both, as may be prescribed in the warrant. Sheriff; duty of.

6. Whenever any judge of a circuit court shall have appointed a special term of any circuit court in the manner directed by the preceding section, and shall afterwards ascertain that he cannot hold the said special term on the day appointed for it, he may, by warrant under his hand, directed to the clerk of the court, adjourn it to such other day as he may deem proper. Such warrant shall be transmitted by the judge to the clerk, who shall immediately enter the said warrant in the order book of the court, and as to the said special term thereafter to be held under the said continuance, proceed in all other respects in the manner directed by the section aforesaid. Adjournment of special term. When and how. Warrant for special term; duty of judge and clerk as to.

7. Whenever the situation of a prisoner confined in jail for trial in a circuit court makes it proper that his case should be disposed of before the next regular term thereof, the judge of such court may appoint a special term to be holden for the trial of the case, in the same manner as if the same had stood for trial at the next preceding term, and the court had adjourned without disposing thereof. Special term for trial of prisoners confined in jail. How appointed.

8. Any cause, civil or criminal, and any motion or proceeding ready for trial or hearing may be tried, heard and determined at any such special term, the same as if it were a regular term of such court. Every such special term may be held by the judge of the circuit, or, if he be dead or absent, by any other circuit judge who may be present; and it may be held part of its session by one judge and part by another; and such special terms may be adjourned from time to time during the intervals between the regular terms as the judge may deem necessary for the dispatch of the business of the court. What cases heard at special term. By whom held. May adjourn from time to time, but not interfere with regular terms.

*Residence of Judges.*

9. Each circuit judge, during his continuance in office, shall reside in the circuit for which he was elected. Residence of judges.

*Orders Made in Vacation, &c.*

10. All orders and decrees made by a judge out of court in a cause pending in court shall be certified by him to the clerk of the court in which the same is pending, and be entered by such clerk in the proper order book. Orders made out of court to be certified to and recorded by the clerk.

*Election of Judge by Members of the Bar; When.*

11. When for any cause the judge of a circuit court shall fail to attend and hold the same, either at the com-

- Judge; election of by members of the bar in the event of disability, etc ; how.**
- Clerk to hold such election.**
- Parties or their attorneys may agree upon a judge to hear and determine case; when and how.**
- Attorney in case cannot vote.**
- No person not admitted to practice shall be elected.**
- Oath**
- Powers and duties of such judge.**
- When judge elected cannot preside another may be agreed upon, etc**
- Compensation of judge so elected. How paid. Application of this and the two next preceding sections.**
- mence of the term, whether regular, adjourned or special, or at any time before its adjournment; or if he be in attendance and cannot properly preside at the trial of any cause therein, the attorneys present and practicing in said court may elect a judge by ballot to hold said court during the absence of the judge. or for the trial of the cause in which the judge of said court cannot preside. The clerk of the court shall hold said election, declare the result thereof, and enter the same of record. *Provided*, however, that the parties or their attorneys, in any case in which the judge of the court cannot properly preside at the trial thereof, may agree upon a judge to try or hear and determine the same, which agreement shall be entered of record in the proper order book of the court, and in such case no election of a judge to try or hear and determine the case shall be held. No person who is counsel or attorney in the case to which the disability of the judge relates shall vote in the election of a judge to try the same; nor shall any person who has not been admitted to practice as an attorney in some court in this State be elected as such judge. The judge so elected or agreed upon shall, before proceeding to act, take an oath that he will faithfully and impartially perform the duties of a judge of such court so long as he shall continue to act as such; and, if he be elected or agreed upon to try or hear and determine a particular case as hereinbefore provided for, he shall take the further oath that he is not interested as counsel or attorney, or otherwise, in the cause to be tried or heard and determined by him.
12. Every judge so elected or agreed upon shall have and possess the same powers, and perform the same duties, in all respects, as the regularly elected judge of such court, during the time he shall act in pursuance of such election or agreement. If there be any cause pending in such court, in the trial or hearing of which the judge elected as aforesaid cannot properly preside, another judge for the trial or hearing thereof may be elected or agreed upon as aforesaid.
13. The judge so elected or appointed shall receive for his services, while sitting as such judge, ten dollars per day, to be certified by the court and paid out of the State treasury. This and the two next preceding sections shall apply as well to criminal as to civil causes.

#### *Acts Repealed.*

- Acts repealed.** 14. All acts and parts of acts coming within the purview of this chapter, and repugnant thereto, are hereby repealed.

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

#### CHAPTER IV.

AN ACT to revive, amend and re-enact chapter ten of the Code of West Virginia, concerning official bonds, bonds taken in judicial proceedings, etc.

[Passed February 10, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That chapter ten of the Code of West Virginia be and the same is hereby revived, amended and re-enacted so as to read as follows: Code; amended.

#### CHAPTER X.

*Official bonds; Bonds taken in Judicial Proceedings; How payable; Sureties; Proof of Execution of Bond.*

1. Every bond required by law to be taken or approved by, or given before, any court, board or officer, shall, unless otherwise provided, be made payable to the State of West Virginia, with one or more sureties deemed sufficient by such court, board or officer, and be proved or acknowledged before such court, board or officer. Official bonds; how taken. Sureties therein How proved or acknowledged.

#### *Suits Thereon.*

2. Upon any such bond, whether heretofore or hereafter taken, and upon any bond payable to the Commonwealth of Virginia, heretofore taken within the territory now included in this State, suits may be prosecuted from time to time in the name of this State, if the bonds be so payable, and in the name of the State of West Virginia, successor to the Commonwealth of Virginia, if the bond be payable to said Commonwealth, for the benefit of the State, or of any county, district or corporation or person injured by a breach of the condition of any such bond, until damages are recovered in the aggregate equal to the penalty thereof. Suits thereon; how prosecuted. For whose benefit.

3. The proceedings in such suit must show for whose benefit it is prosecuted; and the party for whose benefit it is prosecuted shall be liable for costs if the judgment be for the defendant; and the court may, in its discretion, require security for costs from such party, according to the principles and usages of law. Proceedings; what they must show. Who liable for costs. Security for costs.

Copy of bond or record; legal effect of.

4. A copy of the bond, or the record thereof, certified by the officer in whose office it is required by law to be filed or recorded, shall be *prima facie* evidence of the execution and contents thereof; but the court in which any suit upon or relating to such bond is pending, may, in its discretion, require the production of the original bond, unless the same be lost or destroyed.

Court may require production of original bond.

*Bonds taken in Judicial Proceedings, and Bonds given by County, District and Municipal Officers—How payable.*

Bonds taken in judicial proceedings; how payable.

5. Any bond to be given upon an injunction, appeal, writ of error, supersedeas, or other proceedings in a civil suit, may be made payable to the State, according to the first section of this chapter, or to the party entitled to the benefit thereof. And any bond to be given by an officer of a municipal corporation, county, or district, or which may lawfully be prescribed by the ordinances, by-laws, or regulations thereof, may be made payable to the State as aforesaid, or to the said municipal corporation, county or district.

Of officers of municipal corporation, counties and districts; how payable.

*Official Bonds; Condition.*

Official bonds; condition of.

6. When a person undertaking any office is required by law to give an official bond, the condition, unless otherwise provided, shall be for a faithful discharge by him of the duties of his office, and for accounting for and paying over, as required by law, all money which may come to his hands by virtue of the said office. And the liability of the said officer and his securities under said bond shall extend as well to all moneys received by him, by virtue of his office under the laws in force at the time of the execution thereof, as to all moneys which shall come to his hands by virtue of his said office under and by reason of any law passed during his continuance in office.

Liability of officer and securities.

*Time within which Officers must Qualify.*

Officers elected or appointed to an office in this State.

7. Every person elected or appointed to an office in this State, shall take the oath prescribed by the fifth section of the fourth article of the Constitution; and if bond be required of him by law, give his official bond, unless otherwise specially provided, within sixty days after he has been duly declared elected or appointed; or if at the time of his election or appointment he was absent from the State, or from the circuit, county or district for which he has been chosen or appointed, within sixty days after he has been notified of his election or appointment; or if no term of the county court or other tribunal in lieu thereof shall be held within sixty days after the election or appointment of an officer required by law to give bond and qualify before such court or tribunal, was so declared elected, or after he was notified of his said election or appoint-

Time within which they must qualify and give bonds.

ment, then at the first term of such court or other tribunal held next thereafter: *Provided, however,* That the officers elected to any such office at the general election of this State, held on the twelfth day of October, one thousand eight hundred and eighty, from whom an official bond is or may be required to be given or approved before or by the county court of any county or other tribunal in lieu thereof, who failed to qualify or give the bond required by law within the said sixty days, or who qualified and gave or executed such bond within the said sixty days, but who was prevented from having said bond approved by reason of no term of the county court of such county or other tribunal in lieu thereof having been held within the said sixty days, may qualify and give such bond or have such bond approved, if sufficient, before the county court of such county or other tribunal in lieu thereof, within sixty days from the passage of this chapter. *And provided further,* That the executive officers shall qualify on or before the fourth day of March next, after they are declared elected, or before they exercise the duties of their respective offices, and shall give the bonds required by law before entering upon their said duties, except in case of appointment to vacancies in said offices herein otherwise provided for.

Proviso as to officers who failed to qualify or who qualified and were prevented from having bond approved, etc.

Executive officers; time within which they must qualify and give bonds.

8. The preceding section shall not apply to the cases of officers appointed or elected to fill vacancies. They must qualify within ten days after they are notified of their appointment or declared elected.

Preceding section shall not apply to officers appointed to fill vacancies. Must qualify within ten days.

9. If any person elected or appointed to an office fail to qualify within the time prescribed by law, the office shall be deemed vacant.

Failure to qualify; penalty.

10. If a person elected or appointed to an office, who is required by law to give an official bond, act in such office before he has filed his official bond according to law, he shall forfeit not less than fifty nor more than one thousand dollars.

Penalty for acting without bond.

*Official Bonds of Particular Officers.*

11. Every bond required by law to be approved by the Governor shall be first submitted to the Attorney General for examination; and if he be of opinion that it is in proper form and legally executed, he shall make an endorsement thereon to that effect.

Official bond to be approved by the governor, to be examined by attorney general. Endorsement thereon.

12. The secretary of state, auditor, treasurer, state superintendent of free schools, and state librarian, shall each give bond, with good security, to be approved by the governor. The bond of the secretary of state shall be in the penalty of ten thousand dollars; that of the auditor in twenty thousand dollars; of the treasurer in twenty-five

Bonds of secretary of state, auditor, treasurer, state superintendent of free schools, and state librarian; penalty.



Where filed.

thousand dollars; of the state superintendent of free schools in three thousand dollars; and of the state librarian in five thousand dollars. The bond of the secretary of state shall be filed in the office of the auditor, and the other bonds mentioned in this section, in the office of the secretary of state.

Bond of clerk of the supreme court of Appeals.

How approved and penalty.

13. The clerk of the supreme court of appeals, unless he be clerk *pro tempore*, shall give bond, to be approved by the court, in such penalty, not less than three thousand nor more than ten thousand dollars, as the court shall deem sufficient.

Bonds; of clerk of circuit court; of sheriff, surveyor, clerk of county court, assessor, notary public, justice of the peace and constable. To be approved by the county court. Penalty of such bonds. Clerk of circuit court. Sheriff.

Surveyor of lands.

Clerk of county court.

Assessor.

Notary Public.

Justice of the peace.

Constable.

Bond of the clerk of supreme court of appeals; where filed, how approved.

Bond of clerk of circuit court; where filed.

Bonds approved by the county court; where filed. Exception thereto.

Bond in case of temporary appointment or

14. Every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and every sheriff, surveyor of land, clerk of a county court, or other tribunal established in lieu thereof, every assessor, notary public, justice of the peace and constable shall give bond with good security, to be approved by the county court, or other tribunal established as aforesaid, of the county in which such officer is to act. The penalty of the bond of the clerk of the circuit court shall not be less than three thousand nor more than ten thousand dollars; of the sheriff not less than twenty thousand nor more than one hundred and fifty thousand dollars; of surveyor of lands not less than one thousand nor more than three thousand dollars; of clerk of the county court or other tribunal established as aforesaid, not less than three thousand nor more than ten thousand dollars; of assessor not less than two thousand nor more than five thousand dollars; of a notary public not less than two hundred and fifty nor more than one thousand dollars; of a justice of the peace not less than two thousand nor more than five thousand dollars; and of a constable not less than two thousand nor more than ten thousand dollars.

15. The bond of the clerk of the supreme court of appeals shall be filed in the office of the secretary of state. The bonds to be approved by the circuit court for any county, or the judge thereof in vacation, shall be filed in the office of the clerk of such circuit court, except that the bond of the clerk of the circuit court shall be filed in the office of the clerk of the county court.

16. The bonds to be approved by the county court shall be filed in the office of the clerk of such court, except that the bond of the clerk of the county court shall be filed in the office of the clerk of the circuit court.

#### *Bond dispensed with in Certain Cases.*

17. When a temporary appointment is made or vacancy filled pursuant to sections three and five of chapter four,

the official bond may be dispensed with, or the penalty thereof reduced as provided in those sections. vacancy filled; may be dispensed with, &c.

*Copies to be sent to Auditor.*

18. A copy of the official bond of every sheriff, assessor, clerk of the circuit court, clerk of the county court, or other tribunal established in lieu thereof, clerk of the supreme court of appeals, and notary public, shall be sent to the auditor by the officer in whose office the original is filed, within two months after the same is filed in his office. If the officer whose duty it is so to send any such copy, fail to do so within the time specified, he shall forfeit fifty dollars. Copy of bond of sheriff, assessor, clerk circuit court, clerk county court, clerk supreme court of appeals, and notary public; must be sent to auditor. Penalty for failure.

*Record of Bonds.*

19. Every official bond given as aforesaid, every bond taken in judicial proceedings, as aforesaid, (except bonds taken in proceedings before justices), and every bond executed by any person acting in a fiduciary capacity, including bonds given by commissioners and special commissioners upon the sale of property, shall be recorded by the officer in whose office the same is filed as aforesaid, in a book to be kept by him for that purpose, labeled "Record of Bonds." Record of official bonds; where recorded.

*New Bond may be Required.*

20. The court, board or officer by whom any official bond is required by law to be approved, or the successor of any such officer, may at any time require from any officer by whom such bond may have been given, a new bond, or an additional bond to that already given, to be approved by such court, board or officer, or the successor of such officer. If the officer so required to give a new bond, or to give such additional bond, shall, after being notified of the requirement, fail to comply therewith within the time required, his office shall be deemed vacant, unless the time for giving such new or additional bond be extended or the requirement withdrawn. In case such additional bond be given, the former bond shall remain in force and have the same effect in all respects as if such additional bond had not been required; but in such case the sureties in the additional bond shall be jointly liable with those in the former bond for any default of their principal occurring after the approval of such additional bond. This section shall apply to any officer elected on the twelfth day of October, one thousand eight hundred and eighty, who gave bond and qualified before the late county court before the first day of January, one thousand eight hundred and eighty-one, where for any cause the bond so given is deficient, or the security therein insufficient. And the bonds of all such officers heretofore New and additional bonds; when and how required. How approved Office vacated if not given. When former bond to remain in force. Liabilities of sureties. To whom law applies.

Bonds and acts legalized. given, and the action of the county court in approving the same, are hereby legalized and made valid in all cases where such new bond is not required by the county court.

*Relief of Surety on Petition.*

Relief of surety in official bond; proceedings in such cases. 21. When a surety in an official bond or his personal representative shall have reason to believe that he, or the estate of his decedent, is likely to suffer pecuniary loss in consequence of such suretyship, he may file his petition before the court, board or officer by whom such bond was approved, to be relieved therefrom. The petition shall state the ground upon which his belief is founded, and shall be verified by his affidavit. Upon the filing of such petition and proof that a notice of the time and place of filing the same has been served upon the principal in such bond at least ten days before the filing thereof, such court, board or officer shall require a new bond to be given. And if any officer, being so required, fail to give a new bond within the time required, his office shall be deemed vacant, unless the time for giving such new bond be extended or the requirement be withdrawn.

Failure of officer to give new bond if required. Penalty, &c.

*Effect of new Bond when given and Approved.*

New bond; effect thereof when given. 22. Upon new bond being given, approved or filed, according to law, in the cases specified in the last two sections, the sureties in the former bond and their estates shall be discharged from all liability for any breach of duty committed by such officer after that time.

*Validity of Certain Bonds.*

Bonds heretofore given; when valid. 23. Every bond heretofore given shall be valid though it fail to conform to the provisions of this chapter, if there be no other lawful objections thereto.

*Justice to Give Bond or Vacate his Office.*

Justice of the peace shall give bond and security. Failure to; vacates his office. 24. Every justice of the peace elected on the twelfth day of October, one thousand eight hundred and eighty, shall within sixty days after this chapter as amended takes effect, give the bond and security required by this chapter, and his failure to do so shall vacate his office.

*Acts Repealed.*

Inconsistent acts repealed. 25. All acts and parts of acts coming within the purview of this chapter as amended, and inconsistent therewith, are hereby repealed.

[Approved February 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER V.

AN ACT amending and re-enacting chapter thirty-nine of the Code of West Virginia, formerly concerning boards of supervisors, but hereafter concerning the county courts, their jurisdiction and power.

[Passed February 11, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That chapter thirty-nine of the Code of West Virginia <sup>Code amended.</sup> be and the same is hereby amended and re-enacted so as to read as follows :

CHAPTER XXXIX.

CONCERNING THE COUNTY CCOURTS; THEIR JURISDICTION AND POWERS.

*The Court a Corporation.*

1. The county court of every county shall be a corporation by the name of "The county court of \_\_\_\_\_ county," <sup>County court a corporation. Corporate name. Jurisdiction and powers.</sup> by which name it may sue and be sued, plead and be impleaded, and contract and be contracted with.

*Court; By Whom Constituted; Quorum.*

2. The county court of every county shall consist of three commissioners, as provided for in the eighth article of the Constitution of the State, as amended, any two of whom shall constitute a quorum for the transaction of <sup>Who constitute the court. Quorum.</sup> business.

*President of the Court.*

3. The said court shall annually at its first session in each year, or as soon thereafter as practicable, elect one of their number as president of the court. <sup>President of court; when elected.</sup>

*They Succeed to the Former Rights and Liabilities of their County.*

4. The real and personal estate, rights, interests and privileges in relation to real or personal estate, claims and rights of action heretofore belonging to any county, or held in trust for, or for the use of such county or its inhabitants, are hereby transferred to and vested in the county court thereof as such corporation. All contracts heretofore made with any county, or liabilities incurred by such county, shall be good against the county court thereof as such corporation, so far as they are good against the county, when this chapter as amended takes effect. <sup>Property; rights, etc., vested in court. Contracts and liabilities of county; good against county court, etc.</sup>

*Process Against said Court; How Served.*

Process against  
county; how  
served.

5. Process against the said county courts may be served on the president thereof, or if there be no president, then on the clerk, and if there be no clerk, then on the prosecuting attorney of the county.

*Sessions of said Court.*

Sessions of  
court; regular  
and special,  
when and where  
held.

Notice of special  
sessions.

How given and  
what to state.

6. The county court of each county shall hold four regular sessions in each year at the court house thereof, at such times as may be fixed upon and entered of record by said court. It may also hold special sessions, whenever the public interests may require it, to be called by the president, with the concurrence of at least one other of said commissioners; and the commissioner, if any, not concurring therein, must have at least twenty-four hours' notice of the time appointed for such special session. A notice of the time of such special session, and of the purpose for which it will be held, shall be posted by the clerk of said court, at the front door of the court house of the county, at least two days before said session is to be held.

*Penalty on Commissioner Wilfully Failing to Attend such Session.*

Penalty on com-  
missioner for  
failure to attend  
special sessions.

7. If any commissioner, after due notice thereof, shall wilfully fail to attend such special session, he shall forfeit not less than five nor more than twenty dollars.

*Compensation of Commissioners.*

Compensation  
of commissioner

How paid.

8. Each commissioner who attends the session of said court, shall receive for his services two dollars per day for every day he shall so attend, to be paid out of the county treasury.

*Jurisdiction and Powers of the County Courts under the Constitution.*

Jurisdiction  
and Powers  
under the Con-  
stitution.  
As to deeds and  
other papers

As to matters of  
probate, person-  
al representa-  
tives, etc.

Jurisdiction as  
to internal  
police, fiscal  
affairs, etc.

9. The county courts, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties, and the same shall be preserved therein, or otherwise disposed of as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices. They shall also, under such regulations as now are or may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment and regulation of roads, ways, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. *Provided, That no license for the sale*

of intoxicating liquors in any incorporated city, town or village, or within one mile of the corporate limits thereof, (unless it be within another incorporated city, town or village,) shall be granted without the consent of the municipal authorities thereof first had and obtained. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to appeal as hereinafter provided. Such tribunals as have been heretofore established by the Legislature under and by virtue of the thirty-fourth section of the eighth article of the Constitution of one thousand eight hundred and seventy-two, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county court herein mentioned, until otherwise provided by law. And until otherwise provided by law, such clerk as is mentioned in the thirty-sixth section of the eighth article of the Constitution as amended, shall exercise any powers and discharge any duties heretofore conferred on, or required of any court or tribunal established for judicial purposes under the said article and section of the Constitution of one thousand eight hundred and seventy-two, or the clerk of such court or tribunal respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices.

Provision as to license for the sale of intoxicating liquors.

As to cases of contest.

Tribunals established under sec 34, art. 8, constitution of 1872, for police and fiscal purposes, to remain as at present constituted, etc.

Clerk of court; who to act.

His powers, duties, etc.

*Certain Actions, &c., to be Transferred to Circuit Court.*

10. All actions, suits and proceedings not embraced in the next preceding section, pending in a county court when article eight of the Constitution, as amended, took effect, together with the records and papers pertaining thereto, as well as all records and papers pertaining to such actions, suits and proceedings as have been disposed of by said courts, shall be transmitted to and filed with the clerk of the circuit court of the county, and said clerk shall have the same power, and shall perform the same duties in relation to such records, papers and proceedings as were vested in and required of the clerk of the county court, on the day before said article took effect. All such actions, suits and proceedings so pending, as aforesaid, shall be docketed, proceeded in, tried, heard and determined in all respects by the circuit court, as if said suits and proceedings had originated in said court. And it shall be the duty of the clerk of the county court of each county, as soon as possible after the passage of this chapter, to transmit all such actions, suits and proceedings, together with

Certain actions, suits, etc., to be transmitted to clerk of circuit court.

Powers and duties of such clerk as to such records, papers, etc.

Actions pending; how proceeded in, tried, etc.

Duty of clerk of county court as to such actions, etc., records, etc.

such records and papers, to the clerk of the circuit court of such county, who shall receive and file the same in his office.

*Clerk of Circuit Court to Certify such Records, &c.*

Copies of all papers, orders etc., transferred; how made out and certified.  
Effect thereof.

11. Copies of all papers, orders and proceedings in any such actions and suits so transferred, as aforesaid, may be made out and certified by the clerk of the circuit court to which the same shall be transferred, which copies shall have the same force and effect as if made by the clerk of the county court while the same were pending in said court.

*Copies of other Orders and Proceedings in the Record Books Transmitted to the Clerks of the Circuit Courts; by Whom to be Certified.*

Copies of orders, etc., in record books, transferred to clerk circuit court; how made out and certified.

Effect thereof.

Court may cause proceedings of former courts transferred to be copied.  
How.

Effect of certified copies thereof.

12. A copy of any order or other entry in the record books transferred to the clerk of the circuit court under the provisions of section ten of this chapter, relating to matters of which the county court now has jurisdiction, may be made out and certified either by the clerk of the circuit court or the clerk of the county court, and the orders and entries so certified shall have the same force and effect as if they had been certified by the clerk of the county court before the twelfth day of October, one thousand eight hundred and eighty. And the county court of every county may, in its discretion, cause all or any of the proceedings of the former county courts contained in the record books so transferred to the offices of the clerks of circuit courts, relating to matters now within the jurisdiction of such county court, to be copied by its clerk into one or more books to be kept by said clerk in his office, as other records are kept therein; and copies taken and certified from said book shall have the same force and effect as if taken from the original record.

*Power to Punish for Contempts.*

Contempts; power to punish.

Penalty.

13. The county court of every county shall have the same power to punish for contempts as is conferred upon circuit courts by the twenty-seventh section of chapter one hundred forty-seven of the Code; but the penalty imposed for such contempts shall not exceed fifty dollars for any one offense.

*Court House, Jail and Clerk's Offices.*

Court house, jail and clerk's office; court to provide.

14. The county court of every county, at the expense of the county, shall provide at the county seat thereof, a suitable court house and jail, together with convenient offices for the clerks of the circuit and county courts, and shall

keep the same in constant and adequate repair, and supplied with the necessary furniture, books, stationery, fuel, and such other things as shall be necessary. The offices of the clerks of the circuit and county courts shall be fire proof, or be furnished with fire proof vaults or safes. The jail shall be well secured, and sufficient for the convenient accommodation of those who may be confined therein, and so that the convicts may be in apartments separate from each other, and from the other prisoners; every apartment shall be so constructed that it can be kept comfortable. The said court may also provide other necessary offices and buildings, and may, by purchase or otherwise, acquire so much land as may be requisite or desirable for county purposes, and may suitably enclose, improve and embellish the land so acquired.

To keep same in repair, furnished, etc.

Clerk's office to be fire proof, etc. Jail; how constructed and secured.

Other necessary offices, etc., may be provided, etc.

### *Relocation of County Seat.*

15. Whenever the citizens of any county desire the relocation of their county seat, they may file their petition for such relocation at a place to be named therein, at any regular session of the county court of such county in any year in which a general election is to be held in such county. But such petition shall not be filed at a session of said court held within sixty days next preceding such election. None but legal voters of the county shall sign said petition, and an affidavit shall be appended thereto that the subscribers to said petition are, as the affiant verily believes, legal voters of the said county. Upon the filing of such petition, signed by one-fifth at least of all the legal voters of the county, to be estimated by allowing one vote for every six persons in such county, as shown by the last preceding census, said court shall make an order that a vote be taken at the next general election to be held in said county, upon the question of such relocation at the place named in said petition. The clerk of said court shall, upon the adjournment of the court, make out and certify as many copies of the order as there are voting places in the county, and deliver the same to the sheriff thereof, whose duty it shall be to post one of said copies, or cause it to be done, at each of said places of voting, at least forty days before the day of such election; and if a newspaper is printed in such county, the court shall cause a copy of said order to be published therein at least once in each week for four successive weeks prior to said election. If three-fifths of all the votes cast at said election upon the question be in favor of the proposed re-location, the said county court shall enter an order declaring the place named in said petition to be the county seat of the county from and after that day; and the said court shall, as soon thereafter as practicable, cause all the records, books, papers and office property pertaining to the offices of the clerks of the county and circuit courts to be re-

County seat; re-location of; how provided for.

When petition not to be filed.

Who may petition.

Duty of Court upon filing of petition signed; how many to sign and how estimated.

When vote taken.

Notice of vote to be given; duty of clerk of court and sheriff as to.

Three-fifth required to re-locate.

Duty of court re-location carried.

Removal of records, etc.



<b>Ballots.</b>	moved to said new county seat. The ballots used in voting on the question of such relocation shall be the same as those used in voting for officers to be elected at said election; and shall have written or printed on them the words, "Relocation of county seat at _____," (naming the place, "For re-location," or against "Re-location;," but no ballot cast at said election upon such question shall be rejected because all the words above described are not written or printed thereon, if it clearly appear how the voter intended to vote. The said vote shall be taken, superintended, conducted and returned in the same manner and by the same officers as elections for county and State officers. But the commissioners of elections of each place of voting shall make out and sign a separate certificate of the result of said vote and deliver the same to the clerk of the county court within the same time they are required by law to deliver the certificates of the result of the election for officers held by them; and said clerk shall lay the same before the county court at its next session thereafter.
<b>What to be written or printed thereon</b>	
<b>For what ballot not to be rejected.</b>	
<b>Vote; how taken, etc.</b>	
<b>Commissioners of elections; duties of.</b>	
<b>When clerk may lay certificate of result before court.</b>	
<b>Court to declare result, etc.</b>	The said court shall thereupon ascertain and declare the result of said vote and enter the same of record. If two or more petitions for such re-location at different places be presented to the county court at the same session, or at different sessions thereof, the first one so presented shall be, alone, acted upon by the court; and any votes cast at said election for such re-location at any other place than the one named in said first petition, shall not be counted or regarded in ascertaining the result of said vote. In case of such re-location, the county court of the county shall proceed with all possible dispatch to cause the necessary buildings for the use of the county to be erected thereat, and until that is done the courts in said county may, in case of necessity, be held at the former county seat. Such court may receive subscriptions from any person to aid in the erection of such buildings, and all subscriptions made at any time for that purpose shall be binding on the persons making the same, and may be sued for and recovered in the name of the county court of said county.
<b>Petitions for relocation in different places; first only to be acted on.</b>	
<b>Place named in first petition to be voted for, votes for any other not counted.</b>	
<b>Erection of buildings; where court may sit until erection.</b>	
<b>From whom aid may be received and how recovered.</b>	

*Conveyances, &c.—to or for a County—Construction of.*

<b>Conveyances, etc., to a county; construction of.</b>	16. No words in any devise or conveyance of real estate to a county, or the county court thereof, or in any contract for the conveyance of real estate to a county or the county court thereof, expressing the purpose for which such real estate is devised, conveyed or sold, or is to be used, shall limit or impair the power of said county court to dispose thereof absolutely or use the same for another purpose, unless it be expressly declared in such instrument that whenever the said real estate shall cease to be used for the purpose or in the manner therein specified, it shall revert to the former owner, his heirs or assigns.
<b>When property revert to former owner.</b>	

17. Every devise or conveyance of, or contract to convey land within the limits of a county, heretofore or hereafter made, in any manner to or in trust for or for the use or benefit of such county, its people or inhabitants, shall have the same effect as if made to the county court of such county. Ibid.  
Effect thereof.

*Disputed Boundary Lines—How Settled—Compensation to Surveyors, &c.*

18. Whenever a doubt shall exist, or a dispute arise, as to the boundary line between any two counties in this State, it shall be lawful for the circuit court of the counties interested in such boundary line, or for the judge thereof in vacation, to appoint from each of said counties three commissioners to ascertain and establish the true line so in dispute. At least two of said commissioners from each county, together with the umpire hereinafter mentioned, shall act; and the number from each county to be the same, whether two or three. The said commissioners, before proceeding to execute their duties, shall choose an umpire having no interest in the matter in doubt or dispute, who shall be a resident of some county in the State other than the counties interested in such line. Said commissioners and umpire, before acting, shall take and subscribe an oath that they will faithfully, honestly and impartially ascertain, to the best of their ability, the true line so in dispute and make true reports of the same. They may cause such surveying to be done as they may deem necessary, and may summon before them such witnesses as, in their opinion, will aid them in ascertaining such line. Before proceeding to ascertain such line they shall employ a competent surveyor and chain carriers to run the same, and with the best evidence they can procure, direct such surveyor where to run and mark the same. When the disputed line shall be ascertained, fixed and marked, they shall cause to be made three plats of the course or courses and distances of said line, and to note particularly thereon such places of notoriety or prominent objects on or near said line, and make such explanatory notes thereon as, in the opinion of a majority of the commissioners, will best designate the line. Said plats shall each be signed by the umpire and the commissioners, or a majority of them; and they shall return one to the clerk of the county court of each county, to be recorded in his office, and transmit the remaining one to the secretary of state; and the said report and plats, certified by the secretary of state, or by either clerk of said counties, shall be evidence of said line. The county court of each county shall pay their own commissioners and clerks, and shall pay one-half of the

Disputed boundary lines between counties; how settled.  
Commissioners; appointment of.  
Number to act.  
Number from each county.  
Umpire; where to reside, etc.  
Oath of commissioners and umpire.  
Powers and duties of such commissioners.  
Surveyor; employment of.  
His duties.  
Plats; signing and disposition of.  
Their effect as evidence.  
Duty of court as to pay of commissioners, sur-

Surveyor, umpire,  
etc.

compensation of the umpire, surveyor, chain-carriers and witnesses.

*District Lines—Formation of New Districts.*

District lines.

How changed.

New districts;  
how established.  
How consolidated.

Surveyor may  
be employed.

His duty.

His plats, etc.,  
to be returned  
to court.  
Where filed.

19. Whenever the county court of a county shall deem it advisable to change the boundary line between two or more districts, or to establish a new district out of another or two or more districts, or to consolidate two or more existing districts into one, it may make such change, establishment or consolidation, by an order entered of record. And if a survey be deemed necessary, may employ the surveyor of lands for the county, or any other competent surveyor, who shall survey and make a plat of the several districts as the same are thus altered, on which the new lines shall be plainly delineated, noting particularly such places of notoriety or prominent objects through or by which such lines pass, and return said plat and description to such court; and the same shall be filed in the clerk's office of such court and recorded by the clerk.

*Condemnation of Land for County Purposes.*

Condemnation  
of land for  
county pur-  
poses; how.

20. When the title to land for county purposes cannot be otherwise obtained on satisfactory terms, the county court of a county may order application to be made to the circuit court of the county in the manner prescribed by law for the condemnation of the land requisite for any county building or purpose.

*Interest in Certain Roads, &c., Vested in Counties.*

Interest in cer-  
tain roads, etc.,  
vested in coun-  
ties.

Certain rail-  
roads, canals,  
roads, etc., ex-  
cepted.

21. The interest which belonged to the State on the first day of July, one thousand eight hundred and sixty-eight, (whether as owner, or one of the several owners, or a shareholder or stockholder) in any road (including turn-pikes and plank roads), bridge or public landing lying wholly or in part within the limits of a county, is transferred to and shall continue vested in such county so far as such road, bridge or public landing is within the said county; together with all the rights and powers of the State pertaining thereto as such owner, or one of several owners, or as a shareholder or stockholder. But this section and the following one shall not apply to any railroad or canal, lock, dam, slackwater, or other improvement of a river or a navigable stream or to the suspension bridges across Monongahela river at Fairmont and Morgantown, or to the Cumberland road, or to Maryland and Virginia Bridge Company, or to any bridge, toll-house or other property of that part of said last mentioned road.

*Interest of Shareholders, &c., in certain Roads, Bridges and Landings—How acquired by County.*

22. A county may acquire, by agreement, condemnation,

or otherwise, and hold the interest of the owners, share-holders, or stockholders, or any one or more of them other than the State, in any road, bridge, or public landing, so far as the same is within the limits of such county.

May acquire by agreement, etc., interest in roads, bridges, etc.

*Duty of County Courts as to Roads, Bridges and Landings.*

23. So far as any road, bridge, or public landing belongs to or is under the care or control of a county, it shall be the duty of the county court to cause the same to be kept in good repair and condition. And when any county acquires the interest of the State, or any other stockholder in any road, bridge or public landing, under either of the two preceding sections, the county court of such county shall have all powers, rights and privileges, perform all the duties and be subject to the same liabilities that were vested in, held, exercised or required to be performed by or imposed upon the State or other former stockholders therein.

Roads, bridges and landings; duty of court in relation to, under their control.

Powers and liabilities of courts as to such.

*County Subscriptions to Works of Internal Improvement.*

24. When the county court of any county deem it desirable for the county, or any district thereof, to appropriate money to aid in the construction of a railroad or any other work of internal improvement through, by, or near to such county or district, they may, by an order specifying the work to which the money is proposed to be appropriated and the amount of the proposed appropriation, cause a vote to be taken upon the question at the several places of voting in the county or district, at the succeeding general election for State and county officers; or at the school election for school officers, whichever is first held in the county after such vote is ordered to be taken; but such order must be published throughout the county or district thirty days at least before the poll is taken, as follows: The clerk shall cause as many copies of such order as may be necessary to be written, and sign the same. He shall post one of them in a conspicuous place in his office, and deliver the remainder to the sheriff of the county, who shall post one of the said copies in a conspicuous place at every place of voting in the county or district. For every one posted he shall have a fee of twenty-five cents out of the county treasury. The court may also in their discretion direct a copy to be published in one or more newspapers. The poll shall thereupon be taken and the result ascertained under the regulations prescribed by law for general school elections. The ballots used in taking the said poll shall be the same as those used in voting for officers at the said election, and there may be written or printed thereon the words "subscription" or "no subscription," or any other words that

Works of internal improvement; when and how counties may subscribe to.

Vote to be taken; when.

Publication of order.

Duty of clerk as to order of court in such cases.

Duty of sheriff.

Fee for posting.

Order may be published in newspaper. Vote; how taken, ascertained, etc.

Ballots; kind used.

What to have written or printed thereon.

Three-fifths of votes cast necessary to authorize subscription.

Subscription; how made and payment provided for.

Stock subscribed for; vested in county, etc

Court to appoint proxy to represent stock in meeting, etc., of company. Dividends, how collected and where paid.

will show how the voter intends to vote on the question proposed. If it appear by the said poll that not less than three-fifths of the voters of the county or district, who voted upon the question of the proposed appropriation are in favor of the same, the county court shall then have authority to cause subscription to be made in the name of the county or district to the stock of any company which will undertake the work to the amount proposed, or any less amount, on such terms as they may deem advisable, and to provide for the payment thereof by county or district taxation or loans. The right to the stock subscribed for in pursuance of this section, or any special act of the Legislature heretofore passed, shall be vested in the said county or district, and the county court thereof shall have authority from time to time to appoint a proxy to represent the said stock in meetings and elections to be held by the stockholders of the company. The dividends of such stock shall be collected as the said court may order, and be paid into the county treasury.

#### *Noxious Animals and Weeds—Nuisances.*

Noxious animals, etc.; rewards may be offered by court for destruction of, etc.

May also provide for abatement of nuisances.

25. The county court of a county may offer reasonable bounties or rewards for the destruction of noxious animals, birds of prey, or weeds in the county, and provide for the payment of such bounties or rewards out of the county treasury. They may also provide for the abatement or removal of nuisances prejudicial to the health of the inhabitants in any part of the county, or may require or direct the abatement or removal of any particular nuisance of the kind.

#### *Contagious or Infectious Diseases.*

Contagious or infectious diseases; power of court in relation to.

26. The county court may also enforce within the county such general regulations as are necessary or proper to secure the inhabitants from epidemic, contagious or infectious diseases; or direct in any particular case the adoption of the proper measures for that purpose.

#### *Diseased Animals.*

Disensd animals; powers and duties of court in relation to.

27. To prevent injury from rabid animals, or animals suffering under any contagious or infectious disease, said court may require such animals, or any class of them, within the county, to be removed to or confined in an appointed place, or to be killed, and their carcasses buried or destroyed, or such other measures to be taken as will in its judgment be most effectual for the purpose.

#### *Fiscal Year for County Purposes.*

Fiscal year, when to begin, etc.

28. For county purposes, the fiscal year shall begin on and include the first day of June in each calendar year.

*Laying the County Levy and Superseding the Same.*

29. The county court of every county shall at a regular session of said court, held not later than the month of July in each year, proceed to make up an estimate of the amount necessary to be levied for the current fiscal year to cover all county debts and liabilities payable during each year, including the probable expenditure for county purposes, the amount outstanding of unpaid orders on the county treasury, and a proper allowance for delinquent taxes, expenses of collection and contingencies; but deducting the money in the county treasury applicable to the service of the year, and county claims, the collection of which during the year may, in their opinion, be relied on; which estimate when approved by such court, shall be entered by the clerk in the proper record book. The said court shall thereupon levy so many cents on every hundred dollars of the valuation of the property taxable in the county according to the last assessment thereof for State taxation, as will cover the estimated amount necessary to be raised for county purposes during the fiscal year.

County levy; laying of, etc.  
Estimates of amount to be levied; when court to make.

What estimates to include.

What to be deducted.

When approved to be entered in record book.

Levy to be made to pay.

30. When an order is made for a levy the clerk of such court shall, within five days thereafter, make out and certify so many copies thereof as may be necessary and deliver one of the said copies to the officer, who according to law is to collect such levy and charge the said officer with the amount of the levy in the proper account book of the county, and shall also deliver one of the said copies to the assessor, or each of the assessors, if there be more than one for the county. The assessors, (or each assessor), shall immediately in the several copies of his land and personal property book extend in a separate column what may be due from each person by virtue of such levy, and for this additional labor shall receive such compensation from the county treasury as such court may deem reasonable. The officer who is to collect the levy shall at his own expense make out proper tax bills as proscribed in section seventeen of chapter thirty. County levies shall be collected by the sheriff at the same time, in the same manner, and under the same regulations as taxes are collected. Delinquent lists for county levies shall be returned and delinquent lands sold for county levies in the same manner and at the same place, and under the same regulations that lands returned delinquent for State taxes are returned and sold. If any person think that he is improperly charged with a county levy, or required to pay more than is proper on account of the same, he may, within one year from the date of the order making such levy, apply for relief to the county court of the county; but before such application is acted upon he must give reasonable notice thereof to the prosecuting attorney, whose duty it shall be

Copies of levy; when made out and certified by clerk.  
To whom to be delivered.

Duties of assessors on receiving such copies.

Compensation of assessor; how paid  
Tax bills; by whom made.

Sheriff to collect; when and how.

Delinquent lists; return of.  
Delinquent lands; how sold, etc.

Improper charges; relief for same, when and how.

Notice in such cases.

Court to order exoneration, etc.; when.

Collecting Officer to obey same, etc.; when.

Writ of superse-  
deas to levy;  
when and how  
granted

Petition for  
such writ.

Court may re-  
scind order con-  
plained of;  
when.

Money collected  
under order, af-  
terwards rescind-  
ed, etc., to be  
returned.

How recovered,  
etc.

to attend to the interest of the county in the matter. Upon such application the said court shall order the applicant to be exonerated from so much as is improperly charged to or required from him if not already paid; or if it be paid they shall order it to be refunded to him. And the collecting officer upon delivery to him of a copy of such order certified by the clerk of the said county court, shall obey the same and the copy shall be a sufficient voucher to the officer in his settlement for the county levy for the amount thereby exonerated or ordered to be refunded.

31. To an order for a levy, a writ of superse-  
deas may be allowed by the circuit court of the county, or by the judge thereof in vacation, within forty days thereafter, on the petition of not less than twenty-four persons interested in reversing the said order. Without waiting the final decision on such writ, the county court may rescind such order, and order a levy according to law; or if the court shall on the hearing be of opinion that the order is contrary to law and reverse the same, the county court may in like manner order a levy according to law. If money be collected under any such order, which is afterwards rescinded or reversed, the collecting officer shall, upon demand, repay the same to the person from whom it was collected. If he fail to do so, the amount, with cost, may be recovered of him and his sureties, or any one or more of them, by summons before a justice, or motion in the circuit court on ten days' notice.

#### *Of the County Treasury.*

County treas-  
ury; to be kept  
by sheriff of  
each county.

What moneys  
to be paid to,  
and disbursed  
by sheriff.

Sheriff to have,  
the custody  
of all evidences  
of debt, etc.

His duties in re-  
lation thereto.

If there be no  
sheriff; who to  
be treasurer.

32. The treasury of each county shall be kept by the sheriff thereof, who shall be *ex officio* treasurer of such county and of each district therein; and all money collected or received for the use of the county or districts shall be paid to the sheriff, to be kept and disbursed by him for county or district purposes, under the regulations prescribed by law. He shall also have the custody and care of the evidences of debt and securities for money, certificates of stock and the like, belonging to the county, or to any district thereof; and shall attend to the collection of the same, and the interest and dividends accruing thereon; and when necessary, cause proper proceedings to be instituted to enforce the payment of any money due to the county or district. If there be no sheriff in any county, the officer charged with the collection of the county levy shall, for the time being, be county treasurer.

#### *Accounts to be Kept by Clerk.*

Accounts to be  
kept by clerk,  
and how.

33. The clerk of the county court shall keep proper accounts in the books of his office to show, as far as practicable at all times, the money and claims due to and by the county, or which are to be accounted for to the said

court. In the said books he shall charge the officer who, according to law, is to collect the county levy with the amount thereof and credit him with all payments made by him according to law, and with his commissions or compensation, and such allowance as may be made by him by the court, for delinquents or other cause. He shall keep proper accounts on the said books of all claims and securities, and judgments and fines, placed in the hands of any officer or person for collection for the use of the county. The clerk shall also keep an account of all evidences of debt, securities for money, certificates of stock, and the like belonging to the county, and placed in the hands of the sheriff.

*Reports of Sheriff—his Settlements.*

34. The sheriff shall from time to time, make to the county court such reports as they may direct, respecting his receipts and disbursements, and the state of the treasury; or any other matter committed to his charge, or pertaining to the finances of the county. But at the end of the fiscal year he shall render to said court, whether especially requested or not, a full statement of his account for that fiscal year, showing the balance due by or to him at the commencement of the account, the amount of money collected by him during the year, and from what sources, and the date and amount of every county order paid, and to whom it was paid, together with such other particulars, if any, as such court may specially require. If the court, upon an examination of said report, find the account to be correctly stated therein, it shall approve the same and cause it to be entered in full in the proper order book of the court. But if said account be found incorrect, the court shall make a re-statement thereof, correcting the errors and omissions in the account as stated by the sheriff, which corrected account shall be entered in full on said record book. And in either event the court shall cause the county orders listed in said statement, to be cancelled in some way not easily obliterated, but not so as to render them illegible; and the same shall then be filed and preserved by the clerk in his office. A certified copy of such entry shall be delivered by said clerk to the sheriff, which copy shall operate as a receipt to such sheriff for the county orders named in said account and cancelled as aforesaid. Before the making of any such settlement as aforesaid, the sheriff shall return and file a written statement of every draft, order and claim paid by him, for which he claims a credit, and of the true amount actually and in good faith paid by him thereon, together with the drafts and orders upon which such payments were made, and shall append to such statement his affidavit that the same is true; and until he does so, no credit shall be allowed him for any such payment. The making of any

Sheriff to report to court receipts disbursements, etc.

His report at end of year; what to contain.

Examination of his account; if found correct, what then.

If found incorrect, what then.

Cancellation of orders; how. Where filed.

Certified copy to be delivered by clerk to sheriff.

Effect thereof.

Duty of sheriff before such settlement is made.

Making of a



sworn falsely affidavit required by this chapter falsely shall be perjury.

*Publication of Financial Statement.*

Publication of financial statement; when and how.

What to contain.

35. The county court of every county, within four weeks after the beginning of each fiscal year, shall cause to be published in one or more newspapers, if any be printed in the county, and if not, to be posted at each place of voting in the county, an account of the receipts and expenditures of the county during the previous fiscal year by separate items, arranged under distinct heads, and a specific statement of the debts of the county, showing the purpose for which each debt was contracted, the time when it became due, and up to what time the interest thereon has been paid.

*In what cases Orders may be Drawn on the County Treasury.*

Orders on county treasury; not to be drawn unless authorized, etc., by court.

In what cases may be drawn without special order, etc., and how.

36. No order shall be drawn on the county treasury unless authorized by a special order or appropriation of the county court, except that when any bond, note or written evidence of the debt of the county, or any installment of interest thereon is payable; or where money is directed by law to be paid at fixed times or intervals, as in the cases of officers entitled to an annual salary payable quarterly, the president and clerk of such county court, without such special order or appropriation, may make and deliver to the person entitled thereto an order on the county treasurer for any sum so due and payable.

*Form of Orders; by whom Signed; Presentation and Payment thereof.*

Form of order prescribed.

37. All orders on the county treasury shall be in form or effect as follows:

"No. — § — — county — date —.

The sheriff will pay to A. B., or order, the sum of — dollars and — cents allowed by special appropriation passed on the — day of — 18—, after deducting therefrom the amount of all State, county and other taxes and levies in his hands for collection against the said A. B.

E. F., Clerk.

C. D., President."

What may be inserted therein.

Or instead of the words "allowed by special appropriation passed on the — day of — 18—," there may be inserted therein according to the fact, the words "for county bond due," "for interest due," or "for quarter's salary," or other words specifying a lawful cause for such order; and no such order shall be rendered invalid by a defect of form.

By whom signed.

38. No money shall be paid by the sheriff out of the county treasury except upon an order signed by the president and clerk of the county court, and properly endorsed as aforesaid, or upon judgment or decree, as provided in the forty-second section of this chapter.

*Interest and Damages on County Orders.*

39. If, when an order is presented to the sheriff, there are no funds to pay the same, the person entitled to receive the sum of money specified in such order, may require the sheriff to endorse thereon, or write across the face thereof, the words, "presented for payment," with the proper date, and sign the same; and the order, if it was due at the time of presentment, shall in such case be payable with legal interest from the said date. But if the sheriff, having funds to pay the same, fail to pay any county order properly endorsed, when presented to him during business hours, by a person entitled to receive the money therein specified, if the same be then due and payable, or fail to pay any judgment or decree against the county for a sum of money due and payable, when a copy thereof, properly certified, is so presented, he and his sureties, and the personal representatives of such of them as are dead, shall be liable to the person entitled to receive the money due on said county order, judgment or decree, for the whole amount due thereon at the time of such presentation, with legal interest on such amount from that time until payment, and ten per cent on the same amount as damages.

If no funds in hands of sheriff to pay order; what to be endorsed thereon.

Interest on order; when allowed.

Sheriff having funds and failing to pay; remedy against.

Sureties; liability of.

Amount and interest; liable for.

*Claims Against the County; How Presented.*

40. Every person having a claim or demand against a county, shall file with the clerk of the county court thereof an account or statement of the same, fully setting forth the items; and where the claim or demand is for services for which no rate or compensation is fixed by law or by such court, the number of days occupied in such services. The clerk shall present such account or statement to such court at its first meeting thereafter, which shall allow the whole, or such part thereof as they may deem just, or disallow the whole.

Claims against the county to be filed with clerk.

How made out.

Clerk to present same to court; when.

Duty of court thereon.

*No Suit to be brought Against the County except on Claims Disallowed.*

41. No suits shall be brought against a county court for any demand for a specified sum of money founded on contract, except an order on the county treasury, until such demand has been presented to such court and been disallowed by them in whole or in part. But if the court neglect or refuse to act on such demand by the close of the first session after that at which it is so presented, or of the second session after it is filed with the clerk pursuant to the preceding section, for presentation, it shall be deemed to have been duly presented and disallowed.

Suits against county; when brought.

When claim deemed to have been presented, etc.

*Judgment against County; Presentation of Copy Thereof to Sheriff, &c.*

42. When a judgment or decree for a sum of money is

Judgment, etc.,

against county; effect of copy of. rendered against a county court, a copy thereof certified by the clerk of the court by which it was rendered, shall have the effect of an order on the county treasury issued under section thirty-seven of this chapter. Upon the presentation of such copy to the sheriff of the proper county.

Duty of sheriff when such copy is presented to him. it shall be his duty to pay the same to the person entitled thereto, if at the time of such presentation he has in his hands any moneys of the county applicable to the payment thereof; but if he have no money in his hands to pay the same, he shall make the same endorsement on such copy as is required to be made in such cases upon an order on the county treasury. No execution shall issue on such judgment, except by the order of the court in which it was rendered.

If sheriff has no money; what then.

Execution; when to issue on such judgment.

*Certain Property of County Exempt from Execution, &c.;*  
*Enforcing Payment of Claims by Mandamus.*

Property exempt from execution. 43. The lands, buildings, furniture and books belonging to a county and used for county purposes, shall not be subject to execution or other process; but when any demand against the said county has been disallowed, in whole or in part, or any order on the county treasury, or judgment or decree for a sum of money against the said county court has been presented to the sheriff without obtaining payment; or the sheriff has evaded or hindered such presentation, it shall be lawful for the person entitled to the money due on such demand, order, judgment or decree, to petition any court having jurisdiction, or a judge thereof in vacation, for a writ of *mandamus*, to be directed to the county court of said county, commanding it to provide for the payment of such money, by and out of the next county levy to be made in their county, or show sufficient cause why they should not be compelled to do so; which writ shall be returnable as the court or judge awarding the same may order. Upon the said writ such proceedings shall be had as are prescribed by law in other like cases, and the court, (but not the judge in vacation,) may, if the case justify it, award a peremptory *mandamus*, directed to such court, to provide in the next county levy to be thereafter made, for what shall appear to be due to the said complainant, with interest and cost. To any judgment or order of a circuit court, under this section, a writ of error or supersedeas may be granted on like principles and rules as in other cases.

Payment of claims, etc.; when and how enforced by mandamus.

Writ; how returnable.

Proceedings upon such writ.

Peremptory mandamus; when awarded.

Appeal from judgment or order of court.

*Competency as Witnesses or Jurors.*

Witnesses and jurors; competency of. 44. In any suit or proceeding in which a county is interested, no person shall be incompetent as a witness by reason of his being an inhabitant of the county or liable to county levies, or a member of the county court; nor shall

any one be incompetent as a juror because he is an inhabitant of the county, or liable to county levies.

*Prohibition and Mandamus.*

45. The circuit court of any county may, by writ of prohibition, prevent the county court of such county from exercising any jurisdiction or authority which is not conferred on it by law or necessary and proper for carrying into execution the powers so conferred; and may, by writ of mandamus, enforce the performance of any legal duty of such court. But in such cases a writ of error or supersedeas may be granted on like principles and rules as in other cases.

Prohibition and mandamus; circuit courts may issue such writs against county courts; when and for what purpose.

Writ of error or supersedeas; may be granted.

*Record Books to be Kept.*

46. The county court of every county shall provide two record books for the use of the court, in one of which shall be entered all the proceedings of the said court in relation to contested elections; all matters of probate; the appointment of appraisers of the estates of decedents and the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts; all matters relating to apprentices; and in the other of said books shall be entered all the other proceedings of the said court.

Record books; number and what shall be entered therein.

*Appeals.*

47. An appeal shall lie to the circuit court of the county from the final order of the county court in the following cases:

Appeals to circuit court.

*First*—In cases of contested elections tried and determined by said court.

In what cases.

*Second*—In cases of contempts.

*Third*—The establishment and regulation of a road, way, bridge, public landing, ferry or mill.

*Fourth*—The probate of a will, and,

*Fifth*—The appointment and qualification of a personal representative, guardian, curator, or committee, and the settlement of their accounts. When an appeal is taken from the order of the county court for the probate of a will, the same shall be reviewed and the same proceedings shall be had thereon, as if the application for such probate had been made to the circuit court in the first instance.

Proceedings on the probate of a will; appeal from.

*Bills of Exceptions.*

48. At the trial or hearing of any matter by the county court as to which an appeal will lie under the next proceeding section, a party may except to any opinion of the court and tender a bill of exceptions to such opinion, which, (if the truth of the case be fairly stated therein),

Bills of exception may be taken; when.

<p>Commissioners must sign; when. To be part of record.</p>	shall be signed by the commissioners holding the court, or a majority of them, and the same shall be a part of the record of the case. If any commissioner refuse to sign such bill of exceptions in a case in which he participated
<p>How compelled to do so.</p>	in the decision complained of, he may be compelled to do so by the circuit court of the county by <i>mandamus</i> . A party to any such proceeding as to which an appeal will lie as aforesaid, may avail himself of any error appearing on the record by which he is prejudiced, without excepting thereto.
<p>Error apparent on record may be appealed from without excepting thereto.</p>	
<p>Allowances to certain county officers; when and how made.</p>	49. The county court of every county shall allow annually to the county officers hereinafter mentioned, for their public services for which no other fee or reward is allowed by law, such sums to be paid out of the county treasury as are deemed reasonable by the court within the limits ascertained by law, that is to say:
<p>How paid.</p>	The sheriff, not to exceed two hundred dollars, except that the sheriffs of Jackson, Kanawha, Mason, Marshall, Marion and Wood counties shall be allowed a sum not to exceed three hundred dollars.
<p>Amount specified and limited.</p>	To the clerk of the circuit court, not to exceed two hundred dollars, except that the clerk of the circuit court of Ohio county shall be allowed annually not less than five hundred nor more than one thousand dollars; and of Jackson, Kanawha, Mason, Marshall and Wood counties a sum not to exceed six hundred dollars.
<p>Sheriffs; except, etc.</p>	To the clerk of the county court, not to exceed two hundred dollars, except that the clerks of the county courts of Barbour, Kanawha, Mason, Randolph and Wayne counties shall be allowed a sum not to exceed three hundred dollars, and the clerks of the county court of Berkeley and Marion counties a sum not to exceed the sum of five hundred dollars. To the clerk of the county court of Wood county, a sum not exceeding the sum of six hundred dollars.
<p>Clerks of circuit courts; except, etc.</p>	To the prosecuting attorney, not less than two hundred dollars nor more than four hundred dollars, except as follows:
<p>Clerks of county courts, except, etc.</p>	In the counties of Berkeley, Harrison, Jefferson, Marion, Preston, Randolph and Wetzel, not less than two hundred and fifty dollars nor more than five hundred dollars.
<p>Prosecuting attorneys; except, etc.</p>	In the counties of Kanawha, Mason and Marshall, not less than five hundred dollars nor more than one thousand dollars.
<p>No extra allowance after services rendered.</p>	In the counties of Ohio and Wood, not less than five hundred dollars nor more than twelve hundred dollars.
<p>Salary not to be increased or diminished, etc.</p>	But no extra compensation shall be granted or allowed to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract made, nor shall the salary of any public officer be increased or diminished during his term of office. And it shall be the duty of the prosecuting attorney to attend to and prose-

cute or defend (as the case may be) all actions, suits and proceedings in which his county, or any district therein is interested, without additional compensation.

Prosecuting attorneys; certain duties required of, without additional pay.

*Construction of Certain Words.*

50. The words "county court," when used in this chapter as to matters pertaining to the police and fiscal affairs of the county, shall extend to and include all tribunals heretofore established and now existing in any county for police and fiscal purposes under the thirty-fourth section of the eighth article of the Constitution of the State, as adopted in the year one thousand eight hundred and seventy-two. And the words "clerk of the county court," when used in this chapter, where such words are used in connection with matters pertaining to police and fiscal affairs of the county, shall extend to, and include the clerk of such tribunal for police and fiscal purposes.

Construction of certain words.

*Act Repealed.*

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

Acts repealed.

[Approved February 21, 1831.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

CHAPTER VI.

AN ACT amending and re-enacting chapter eighty-four of the Code of West Virginia, relating to the transfer of property in this State belonging to decedents, wards, insane persons or *cestui que trust* in another State or country.

[Passed February 24, 1881.]

Be it enacted by the Legislature of West Virginia :

1. Chapter eighty-four of the Code is hereby amended and re-enacted so as to read as follows:

Code amended.

CHAPTER LXXXIV.

1. The stock, bonds, or certificates of debt of this State, and of any corporation created by it, standing in the name of a decedent, domiciled at the time of his death out of this State, and who is not known by the officer or agent charged

Transfer of property of a decedent domiciled out of the State at his death; how made, etc.

with the duty of transferring such stock or certificates to have a personal representative qualified as such within the same, may be transferred by the executor or administrator of such decedent, qualified according to the laws of the domicile, when affidavit shall have been filed as prescribed in the next section.

**Affidavit to be filed in such cases.**

**Notice of proposed transfer; how and for what time.**

**Notice for bidding such transfer; what then.**

**Transfer of property of infant or insane person residing out of State; how made and when.**

**Transfer of property of infants, insane or *cestui que trust*, invested in this State, where such infants, etc., reside out of the State; how and when.**

2. There shall be filed with such officer or agent as is mentioned in the preceding section, the affidavit of some credible person that notice of the proposed transfer has been published once a week for two weeks in some newspaper published in the county in which are kept the books upon which the transfer is proposed to be made, and was posted at the front door of the court house of such county two weeks before the time of making such affidavit. But if before such transfer be actually made, a notice in writing forbidding the same be served on such officer or agent, such transfer only shall be made as would have been lawful if this and the preceding section had not been enacted.

3. When any minor or insane person, entitled to property or money in this State, resides out of it, on the petition of a guardian or committee, lawfully appointed or qualified in the State or country of his residence, the circuit court of the county in which the estate may be, may order the guardian or committee in this State, if there be one, to pay and deliver to such foreign guardian or committee, or his agent or attorney, all personal property and money in his hands, belonging to said ward or insane person, and authorize such foreign guardian or committee to sue for, recover and receive all money or personal property which may belong to his ward or insane person, including the accruing rents of his real estate, in like manner as if he were appointed a guardian or committee of such ward or insane person in this State, and remove the same to the State or country in which the said foreign guardian or committee was appointed and qualified.

4. When the proceeds of sale of real estate of an infant, insane person or *cestui que trust*, under the laws now in force, are invested, or required to be invested, under the direction of a court, and such infant, insane person or *cestui que trust* reside out of this State, on the petition of a guardian, committee or trustee, lawfully appointed or qualified in the State or country of the residence of such infant, insane person or *cestui que trust*, the court under whose directions such proceeds are invested, or required to be invested, may, with the consent of the persons residing in this State who would be the heirs of such infant, insane person or *cestui que trust*, if he were dead, order the said proceeds to be paid and delivered to such foreign guardian, committee or trustee, or his agent or attorney, and removed by him to the State or country in which he was

appointed and qualified; provided, that whenever, in the judgment of the court, the removal of the trust subject will defeat or conflict with the provisions of the deed, will or other instrument creating the trust, the court may refuse to grant the prayer of the petition. No such order shall be made until there is done what is required by the fifth and seventh sections of this chapter to authorize an order under the third section.

When court may refuse to grant prayer of petition for such transfer.

5. No such order shall be made until notice of the application shall have been published once a week for four successive weeks in a newspaper; nor until it shall be shown by authentic documentary evidence that such foreign guardian or committee has, where qualified, given bond with surety sufficient to insure his accountability for the whole amount of the ward's or insane person's estate in his hands, or which will probably be received by him as such guardian or committee; nor until the court shall be satisfied that the removal of such money or property from this State will not impair the rights or be prejudicial to the interests of the ward or insane person or of any other person.

Such order not to be made, until, etc.

6. When any personal estate in this State is vested in a trustee resident therein, or who acts by virtue of a deed, will or other instrument recorded or probated therein, and those having the beneficial interest in the said estate are non-residents of this State, the circuit court of the county in which the said trustee may reside, or in which such estate may be, may, on a petition or bill in equity filed for that purpose, order him or his personal representative to pay, transfer and deliver said estate, or any part of it, to a non-resident trustee, appointed by some court of record in the State in which the said beneficiaries reside.

Transfer of personal estate vested in trustee, when those having beneficial interests are non-residents; how made.

7. No such order shall be made in the case of a petition until notice of the application shall have been given to all persons interested in such trust estate; nor until the court shall be satisfied, by authentic documentary evidence, that the non-resident trustee appointed as aforesaid, has given bond, with sufficient security, for the faithful execution of the trust; nor until it is satisfied that the payment and removal of such estate out of the State will not prejudice the right of any person interested or to become interested therein.

Such order not to be made, until, etc.

8. If in any proceeding under the third or sixth sections of this chapter, it shall appear to the court to be proper, it may order the property, or any part of it, to be sold, and the proceeds to be paid to the foreign guardian or committee, or non-resident trustee.

Sale of property of ward, insane person, etc., may be ordered and proceeds transferred.

9. When any guardian or committee, trustee, or other person shall pay over, transfer or deliver any estate in his hands or vested in him, under any order or decree made

Resident guardian, etc., protected by such decree.



in pursuance of this chapter, he shall be discharged from all responsibility therefor.

[Approved March 7, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER VII.

AN ACT amending and re-enacting chapter forty-six of the Code of West Virginia, concerning the poor.

[Passed March 5, 1881.]

Be it enacted by the Legislature of West Virginia :

Code amended, etc. 1. That chapter forty-six of the Code of West Virginia be and the same is hereby amended and re-enacted so as to read as follows :

### CHAPTER XLVI.

#### OF THE POOR.

##### *Appointment of Overseers of the Poor.*

Appointment of overseers of poor.

1. The county court of every county shall, at its levy term, in the year 1881, and at the same term in every second year thereafter, appoint for each magisterial district in the county, an intelligent and discreet voter residing therein as overseer of the poor for said district for the term of two years. The overseers of the poor now in office shall remain therein until their successors shall be appointed as aforesaid. Vacancies in said office shall be filled by said court for the unexpired term. Every person so appointed shall take the oath of office prescribed by the fifth section of the fourth article of the Constitution of the State before entering upon the discharge of the duties of his office.

Term of office.

Vacancies, how filled.

Oath of office.

*County Courts Succeed to the Rights, etc., of the Former Boards of Overseers of the Poor.*

County court hereafter to perform duties of board of overseers of poor. To succeed to the rights and liabilities of former boards, etc.

2. The county court of every county shall hereafter do and perform all the duties heretofore devolved upon boards of overseers of the poor. The said court in its corporate capacity shall succeed to all the rights and liabilities lawfully acquired or incurred by said boards of overseers of the poor, and without any transfer or conveyance, be deemed respectively the owners of the real and personal property in their several counties heretofore lawfully appropriated to the use of the poor thereof; and may receive, hold, use

and dispose of according to the rules of law and the intent of the instrument conferring title, any gift, grant, devise or bequest made for the use of the poor under their jurisdiction.

3. Every such court may purchase lands for the use of the poor, and sell and convey lands heretofore or hereafter acquired for that purpose; and may provide stock and implements of husbandry on any of its said lands, and use said lands as a place of general reception for the poor; said court may also provide a county infirmary, work-house and other improvements necessary for the use and benefit of the poor. The county court of two or more adjoining counties may, in like manner, jointly establish a place of reception for the poor of their several counties, and contribute to the expense of establishing, furnishing and supporting the same, in such proportions or under such regulations as may be agreed upon; but such common place of reception shall be under the management and direction of the county court for the county in which it is situated, unless it be otherwise agreed between the courts of the several counties concerned; and the persons under whose management and direction such common place of reception may be, shall exercise, in respect to the same, the authority mentioned in the succeeding section.

May purchase for use of poor. Lands Stock and implements.

County infirmary.

Adjoining counties may jointly establish place of reception.

4. The county court of a county may employ managers, physicians, nurses and servants to take care of the poor, or any of them, under its charge; and prescribe regulations respecting the place at which the poor are kept, and the discipline and order to be observed or enforced at the same.

Managers, physicians, etc.

*What Persons Are to be Supported or Assisted, and How.*

5. A person shall not be deemed to have a legal settlement in any county until he has resided one year continuously therein; nor if he has immigrated into the State within three years, unless at the time of so migrating he was able to maintain himself.

When persons deemed to have a legal settlement under this chapter.

6. On application by or on behalf of any person who is unable to maintain himself, or by or on behalf of the family of any person when he is unable to maintain it, and the family is unable to maintain itself, such person or family, if he or they have a legal settlement in the county, shall be provided for, or assisted as his or their necessities may require, under the order and direction of the overseer of the district in which such settlement may be; and if he or they have not a legal settlement in the county, shall nevertheless be so provided for or assisted under the order and direction of the overseer of the district in which he may be, until properly removed as hereinafter provided. But the county court of the county may change or rescind any order or direction given by such overseer, and may

Duty of overseer of poor when application made to him for relief, etc.

direct any person or family to be provided for or assisted, though the overseer of the district has refused to do so.

Where persons assisted to be kept.

7. Any person, to be provided for or assisted as aforesaid, may either be kept at the place of general reception, or be supported or assisted elsewhere; but in a county where there is a county infirmary he shall not be kept at the expense of the county at any place other than such infirmary, except in case of emergency or necessity, and then only so long as the emergency or necessity may require. All poor persons kept at the place of general reception, who are able to work, shall be required to perform such reasonable and moderate labor as may be suited to their sex, age and bodily strength; and the proceeds of such work shall be appropriated to the support of the poor of the county in such manner as the court may from time to time direct.

Required to work.

Duty of overseer in relation to burials.

8. The overseer of every district shall have decently interred the remains of such persons as die therein, who, at the time of their death, may not have possessed property enough to pay the expenses of such burial.

Also in relation to vaccination.

9. The overseer of a district may cause to be vaccinated with proper vaccine matter any persons in such district who are unable to pay the expenses thereof.

*Of Paupers Found in a County Where They Have not a Legal Settlement.*

Non-resident paupers.

10. On the complaint of an overseer for any district before a justice thereof, that any person has come into such county who is likely to be chargeable thereto, such justice may, by warrant, cause such person to be brought before him, and, upon proof of the truth of such complaint, shall cause the person complained of to be removed to the county wherein he was last legally settled, or if he migrated from another State, and has no legal settlement in this, to be removed to such other State, unless he be so sick or disabled that he cannot be removed without cruelty or danger of life; in which case he shall be provided for at the charge, in the first instance, of the county wherein he is, and after his recovery, shall be removed.

To be removed to the county of their legal settlement

Duty of county court in relation to paupers returned to their county.

11. The county court of the county wherein such person was last legally settled, shall, upon his being so removed thereto, provide for him, and repay all the charges incurred for his maintenance, cure and removal. If he die before removal, it shall repay the charges for his burial and those incurred during his sickness. In case of failure to comply with this section, complaint may be made before the circuit court of the county, and a summons may be awarded against said county court upon the return of which, executed, the circuit court may order said county court to provide for such person and order payment of the charges

aforesaid, and compel obedience to any such order by attachment or otherwise.

12. If an indigent person not having a legal settlement in this State, be brought into and left in the same, with intent that he should become a public charge, every person who brought or caused to be brought, or counseled or aided in bringing such indigent person into the State with intent as aforesaid, shall forfeit one hundred dollars for every such offense.

Indigent persons brought into a county—penalty for

#### *Public Beggars.*

13. Every overseer shall exert himself to prevent any person from going about begging or straying in any street or other place to beg. Every such person, if properly a county charge, shall immediately be taken up and conveyed to the place of the general reception for the poor of the county in which he may be found, if there be one; or if he have a legal settlement in another county of this State, he may be proceeded against according to the tenth section. Or where he has migrated from another State, and has no legal settlement in this, the county court may cause him to be removed to such other State. To carry into effect this section, an overseer may issue a warrant to a constable.

Duty of overseers in regard to public beggars, etc.

#### *Liability of the Relations of a Pauper for His Support.*

14. The relations who are of sufficient ability, of any pauper, shall be liable in the following order, to support such pauper in such manner as shall be required by the county court of the county in which the pauper may be, and to pay the expenses of burial when he dies; that is to say: 1. The children; 2. If there be no children, or they be not of sufficient ability, then the father; 3. If there be no father, or he be not of sufficient ability, then the brothers and sisters; And 4. If there be no brothers or sisters, or they be not of sufficient ability, then the mother, if she be of sufficient ability. But if any relation so liable do not reside in this State, and has no estate, or debts due him within the same, by means whereof the liability can be enforced against him, the other relatives shall then be liable to support such pauper in the order above mentioned, but no such relation shall be compelled to receive such pauper in his own house against his consent.

Liability of certain relations of pauper for his support.

15. The county court of the county in which the pauper may be may proceed, by motion in the circuit court of such county, against any one or more of the relatives liable as aforesaid, and the court shall thereupon hear, in a summary mode, the allegations and proofs of the parties, and assess upon such of the relatives, duly notified of the proceeding, as appear to be liable therefor and of sufficient ability, such sum as will reimburse to the court the expense,

Proceedings in relation thereto

if any, incurred by it in or about the support or burial of such pauper up to the time of the assessment, with interest and costs; and payment thereof may be enforced by execution in common form. The court shall further, as the case may require, assess upon the said relatives such sums, to be payable quarterly thereafter to the said county court until the further order of the court, as will be sufficient for the future support of the pauper, if he be living; and the clerk of the court shall, from time to time thereafter, on application of the county court, or the president thereof, issue execution for the arrears of any preceding quarter, with interest from the time appointed for the payment thereof and costs.

Questions of fact may be tried by jury.

16. The court may direct any questions of fact arising in such proceeding to be tried by a jury; and may from time to time, on the motion either of the county court or any relative affected thereby, vary, as circumstances may require, the judgment or order so far as it relates to the future support of the pauper. But no jury fee shall be taxed in any proceeding under this section.

Court may proceed by summons and attachment.

17. The court may proceed by summons and attachment instead of motion, against the persons, or any of them liable as aforesaid, with like effect and subject to the like rules and principles, as if the proceedings were instituted to recover damages for a breach of contract or money for a claim.

Relation unable to wholly support pauper; what then.

18. If it shall appear in any case that the party liable is unable wholly to support the pauper, but is able to contribute towards such support, the court, in its discretion, may assess upon him the proportion which he shall be required to contribute, either to the past expense incurred by the court, or to the future support of the pauper, or both, and assess the residue upon the relatives in the order aforesaid. And payment of the said assessment, with interest and costs, may be enforced by execution as aforesaid.

#### *Duties, Tenure of Office and Compensation of Agent.*

Agent; county court may appoint.

19. The county court of any county may appoint an agent who, before acting as such, shall execute a bond to the said county court in such penalties and with such sureties as the county court deem sufficient, conditioned as required by the sixth section of the tenth chapter of the Code.

To have charge of infirmary or place of general reception.

20. Such agent shall have charge of the county infirmary or place of general reception for the poor of the county; but shall be at all times under the control of the county court, and observe the rules and regulations prescribed by it. He shall receive persons into the infirmary to be supported therein, only on the order in writing of an overseer or of the said court. He shall keep a register of all such

How persons received into infirmary.

persons, showing the name and age of each person, the date when he was admitted, whether he was admitted upon the order of the county court or an overseer of the poor, and if the latter, the name of the overseer on whose order he was admitted. It shall also show whether any, and if any, which of the persons so admitted were kept at the place of general reception, for what length of time and in what manner, and shall note, with the proper dates, which of them were discharged or removed, escaped or died, with such other information as he may deem useful.

Agent to keep register; what to show, etc.

21. The county court shall cause the county infirmary to be visited at least once a month by one or more of their number, or by one or more of the overseers of the poor, who shall carefully examine the condition of the inmates, the manner in which they are treated and provided for, ascertain what labor they are required to perform, inspect the books and accounts of the agent, and generally inquire into all matters pertaining to the infirmary and report to the said court.

Infirmary to be visited; by whom, etc.

22. The agent shall keep for the county court such money and property as it may authorize him to receive, or have the care of and dispose of the same as it may direct. He may, in the corporate name of the court, recover money or property for them, and defend proceedings against them, the court allowing the expenses of such prosecution or defense.

Agent to have charge of money and property authorized by county court.

23. Every officer or other person appointed or employed by the county court under the provisions of this chapter, shall hold his office or employment at its pleasure, and receive for his services such compensation as it may deem reasonable.

Compensation of agent, etc.

*Accounts of the Agent and Several Overseers; Legal Proceedings Against Them.*

24. Annually at the session of the county court at which the county levy is laid, and more frequently, if required, every agent and overseer shall render to the court a correct account of his transactions, with proper vouchers, and pay according to its order such balance as may be in his hands. Any agent or overseer failing to do so shall forfeit not less than thirty nor more than one hundred dollars.

When agent and overseers to render account.

25. The county court of any county may move for and obtain judgment in the circuit court of such county against any overseer or his representatives, or against any agent or other person and his sureties, and his and their personal representatives, for such balance as may be in the hands of, or be owing from, such overseer, agent or other person, with lawful interest thereon, and for damages in addition thereto not exceeding fifteen per centum.

How proceeded against for failure to account, etc.

*Compensation of Overseers.*

Compensation  
of overseers.

26. The county court of the county shall allow each overseer therein, out of the county treasury, such sum as it may deem reasonable for his services, not exceeding one dollar and a half for each day necessarily employed by him in the duties of his office; and his own affidavit shall be received as *prima facie* evidence of the number of days so employed.

*Annual Statement of County Court.*

Annual state-  
ment of county  
court; what to  
contain, etc.

27. The county court of every county shall, at the session thereof at which the county levy is laid in each year, make up and enter of record a statement of the number of the poor provided for during the year next preceding, and showing how many were white and how many colored; how many were males and how many females; for what length of time, and where each was provided for or assisted; the name of each; the amount of money at their disposal for the support of the poor for such year, showing how much from the annual levy, and how much otherwise; the amount expended by them for the year, showing how much was expended at the place of general reception, and how much for those supported or assisted elsewhere; the balance remaining in their hands or under the control of the county court; what amount in addition will be required to pay arrears for the past and meet expenditures for the ensuing year, and what will be the nature of the said expenditures. It shall show whether any, and if any, which of the poor under its charge were kept at work at the place of general reception, for what length of time and in what manner, whether in the work house, or in tilling the land or otherwise. The said statement, and all other proceedings of the county court in relation to the poor, shall be kept in a separate book, to be provided by it for that special purpose. And the amount expended by said court, or under its direction, in each year, with the items thereof, shall be published as a part of its financial statement, under section thirty-five of chapter thirty-nine of this Code.

To be kept in a  
separate book,  
etc.

Items thereof  
to be published  
as a part of  
annual state-  
ment.

*Of the Supply of Money for the Support of the Poor, and Disbursement of the Same.*

Levy for  
support of  
poor.

28. Upon the completion of said statement the county court of the county shall provide in the county levy for such amount as it may deem necessary for the support of the poor for the ensuing year, including the payment of arrears, and from time to time thereafter shall appropriate out of the county treasury such sums for that purpose as the said court may deem proper, and cause proper orders therefor to be issued on the county treasury.

29. The orders so issued on the county treasury shall

be placed by the sheriff on his books to the credit of the county court for the support of the poor, if there be funds to pay the same, and the sums specified in the said orders, with any other sums standing on his books to the credit of the court for the purpose aforesaid shall be paid by the sheriff only upon orders of the county court, signed by the president and countersigned by the clerk, payable to order and properly endorsed.

Sheriff's duties as to orders for support of poor, etc.

30. The property belonging to the county court in its corporate capacity, and used for the benefit of the poor of the county, shall not be subject to execution or other process; but when a judgment or decree for a sum of money is rendered against it, a copy thereof, certified by the justice by whom, or the clerk of the court by which it was rendered, shall have to all intents and purposes the same effect as an order of the said court upon the sheriff, and when the sheriff has funds in his hands to the credit of the said court, he and his sureties, or any one or more of them, and the personal representatives of such of them as are dead, shall be liable in like manner, and to the same extent and effect, for failing to pay the money due on such judgment or decree as for failing to pay a judgment or decree against the county court of the county, according to the thirty-ninth section of chapter thirty-nine of the Code.

Property of county not subject to levy. . .  
Remedy against sheriff failing to pay, etc.

*Fines Imposed by this Chapter.*

31. Every fine imposed by this chapter shall be to the county court of the county in which the same was incurred in its corporate capacity.

Fines for use of county court.

*Construction of Certain Words.*

32. The words "county court," when used in this chapter, shall be construed to mean and include every tribunal heretofore established and now existing in any county for police and fiscal purposes, in lieu of the county court, and the word "overseer," or "overseers," shall be construed as if the words "of the poor" immediately followed them.

The words "county court," and "overseer," how construed.

*Acts Repealed.*

2. All acts and parts of acts coming within the purview of this act, and inconsistent therewith are hereby repealed.

Acts repealed.

[Approved March 9, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.



## CHAPTER VIII.

AN ACT to revive, amend and re-enact chapter fifty of the Code of West Virginia, concerning the jurisdiction, powers and duties of justices of the peace and constables, and proceedings before justices.

[Passed March 5, 1891.]

Be it enacted by the Legislature of West Virginia :

Chapter 50 of the Code amended and revived.

1. That chapter fifty of the Code of West Virginia be and the same is hereby revived, amended and re-enacted so as to read as follows :

## CHAPTER L.

Of the powers, duties and liabilities of justices and constables, and the proceedings in civil suits, and in the trial of offenses of which justices have jurisdiction.

*Of the Civil Jurisdiction of Justices.*

Civil jurisdiction of justice, to extend throughout county. Justice of one district may issue summons returnable before justice of another district. When justice of one district may act in another.

1. The civil jurisdiction of a justice of the peace shall extend throughout the county in which the district is for which he was elected.

2. A justice of one district may issue a summons to the defendant to appear before the justice of another district in the same county if the suit be cognizable by the latter.

3. If a justice be under any disability to act in a case before him, any other justice in the same county not disqualified under the provisions of section fourteen of this chapter, may exercise the powers of a justice in such case.

Justice may administer oaths, etc., in his county.

4. Where any oath may lawfully be administered, or affidavit or deposition taken within any county, it may be done by a justice therein, unless otherwise expressly provided by law.

Acknowledgment of deeds may be taken by justice.

5. A justice under such regulations as are prescribed by law may take within his county the acknowledgment of deeds and other writings, and the privy examination of married women respecting the same.

Certain previous acknowledgments legalized.

6. Where the acknowledgment of any deed or other writing, or the privy examination of a married woman respecting the same has been heretofore taken by any justice out of his township at a time when it should have been taken therein, or it does not appear by the certificate of the justice that such acknowledgment or privy examination was taken within his township, the same shall nevertheless be sufficient, unless there be other lawful objection thereto.

7. And the record of any deed or other writing made upon any such acknowledgment or examination, as is mentioned in the preceding section, is hereby legalized and made as valid and binding in all respects as if such acknowledgment had been taken and certified by a justice within his township. Recording of deeds so acknowledged legalized.

8. The jurisdiction of justices within their several districts and counties shall extend to all civil actions for the recovery of money or the possession of property, including actions in which damages are claimed as compensation for an injury or wrong. *Provided*, The amount of money or damages, or the value of the property claimed, does not exceed three hundred dollars, exclusive of interest and costs; subject, nevertheless, to the exceptions hereinafter contained. Justices to have jurisdiction where sum in controversy does not exceed \$300.00, etc.

9. They shall have jurisdiction as hereinafter provided in case of the unlawful detention of real estate situated within their respective counties. Also in cases of unlawful detention of real estate.

10. A justice shall have jurisdiction of actions for trespass on real estate, or damages to the same, or to rights pertaining thereto, if the damages claimed do not exceed three hundred dollars and the cause of action arose in his county. But, such actions and cases of the unlawful detention of real estate excepted, he shall not have jurisdiction of any suit in which the title to real estate is sought to be recovered, or is drawn in question, except as hereinafter provided, nor shall any judgment of a justice in such action for trespass or damages, or case of unlawful detention, bar the title of any party or any remedy therefor. Also in cases of trespass on real estate.  
Exception,  
No jurisdiction where title to real estate is in question.  
Judgment in certain cases not to bar title.

11. When the action is on a penal bond, the amount of damages claimed for the breaches alleged, and not the penalty, shall be considered in determining the question of jurisdiction. Jurisdiction in actions on penal bonds.

*No Jurisdiction in Certain Cases.*

12. A justice shall not have cognizance of any action : Justice not to have cognizance in certain actions.  
*First*—For false imprisonment ; or,  
*Second*—For malicious prosecution ; or,  
*Third*—For slander, verbal or written ; or,  
*Fourth*—For breach of marriage promise ; or,  
*Fifth*—For seduction.

13. When a balance is found in favor of a party, either by the verdict of a jury or award of arbitrators, or upon a hearing before the justice, exceeding the sum for which a justice is authorized to give judgment, such party may release the excess and take judgment for the residue. Where more than \$300.00 found in favor of a party, may release excess etc.

14. If a justice be a party to the suit, or be interested in the result thereof, otherwise than as a resident or tax- Proceedings in case where jus-

Justice interested,  
etc.

payor of the district or county, or be related to either of the parties, as grandfather, father, father-in-law, son, son-in-law, brother, brother-in-law, nephew, uncle or first cousin, guardian or ward, or be a material witness for either party, he shall not take cognizance thereof, unless all parties to the suit consent thereto in writing. But when a justice is under such disability, any other justice in the same county may exercise jurisdiction in the case, if there be no other objection.

Also, in case of  
his sickness, etc.

15. In case of sickness or disability or absence of a justice, another justice of the same county may attend in his place, and shall thereupon become vested with his authority for the time being. The attending justice shall in such case make and sign proper entries of the proceedings in the docket of the absent justice.

In what county  
action must be  
brought.

16. The civil jurisdiction of a justice shall not extend to any action, unless the cause of action arose in his county, or the defendant, or one of the defendants, reside therein, or, being a non-resident of the State, is found, or has effects or estate within the county.

Process; to what  
constable directed.

17. If the justice have jurisdiction of the action, any lawful process, order or notice therein, unless otherwise specially provided, may be directed to any constable in the county where it is issued, or to any person specially deputed by the justice to serve or execute the same, as provided in section thirty of this chapter, and the officer or person to whom it is directed may serve or execute the same anywhere within his county, or upon any river or creek adjoining thereto. It may be directed to the constable by name or by his official designation without naming him.

How directed.

Jurisdiction of  
justice in action  
on bonds.

Who may bring  
suit thereon.

18. Subject to the provisions of the sixteenth section of this chapter, a justice shall have jurisdiction of actions on bonds given pursuant to this chapter, and suit may be brought on any such bond, before the justice or court having jurisdiction, by and in the name of any person sustaining loss or damage, by reason of the non-performance of the condition thereof.

#### *How Actions Before Justices are to be Commenced, etc.*

Actions before  
justices; how  
commenced etc.

19. Actions before justices are commenced by summons, or by the appearance and agreement of the parties without summons; and not otherwise. Any action so commenced by agreement, shall be proceeded with to trial, judgment, and execution in the same manner and with like effect as if the same had been commenced by summons.

When com-  
menced.

20. In the former case the action is commenced upon the delivery of the summons to be served, and the constable shall note thereon the time of receiving the same.

In the latter case the action is commenced at the time of docketing the case.

*Right to Appear by Attorney.*

21. Any plaintiff or defendant in an action before a justice, unless he be under twenty-one years of age, may appear and conduct his suit or defense in person or by agent or attorney. Adult party may appear by agent or attorney.

22. A party authorized to appear by agent or attorney, may appoint any person to act as such. The authority may be written or verbal. Appointment; how made.

23. When an agent, attorney or guardian for the suit has been appointed service, of any notice in the suit on him shall be equivalent to service on his principal, and his presence at any proceeding therein have the same effect as the presence of the party he represents. Service of papers on agent or guardian, etc.

*Infant Plaintiff or Defendant.*

24. Where a party to the action is under the age of twenty-one years, a guardian for the suit must be appointed for him by the justice as follows: First, If the infant be plaintiff, the appointment must be made before the summons is issued, on the application of the infant, if he be of the age of fourteen years or upwards; if under that age, on the application of some friend. The consent in writing of the guardian to the appointment, and his agreement to be responsible for costs, if he fail in the action, must be filed with the justice. Second, If the infant be defendant the guardian must be appointed and consent to act as such before the trial. It is the right of the infant defendant to nominate his own guardian, if the infant be fourteen years of age or over, and the proposed guardian be present and consent to serve, otherwise the justice shall appoint some suitable person who gives such consent. The guardian for the defendant shall not be liable for any costs in the action. Guardians for infant party; when and how appointment made. Guardian for infant plaintiff responsible for costs. Guardian for infant defendant must consent to act. Not liable for costs.

*Suits in Partnership Name.*

25. Persons associated as partners in any trade or business, may sue as such before a justice in the firm name by which such partnership is usually known; and it shall not be necessary to allege or prove in such suit who are the persons composing the partnership. Suits in partnership name.

*Form and Requisites of the Summons.*

26. The summons in justices' courts shall be in form or in substance as follows: Form and requisites of summons.

\_\_\_\_\_ county, to-wit:  
 To any constable in said county.  
 You are hereby commanded, in the name of the State of West Virginia, to summon A. B., to appear before me, at

my office, in the district of ———, in the said county, on the ——— day of ———, at ——— o'clock, A. M., (or P. M., as the case may be,) to answer the complaint of C. D., in a civil action for the recovery of money due on contract (or for damages for a wrong, as the case may be,) in which the plaintiff will claim judgment for \$——.

Given under my hand this ——— day of ———, 18—.

E. F., J. P.

When returnable.

The summons shall be made returnable not less than five nor more than thirty days from its date. If the action be to recover the possession of personal property, the cause of action may be stated in the summons as follows: "For the recovery of the possession of one horse (or one cow, &c., according to the fact,) of the value of \$——, and \$—— damages for the detention thereof;" but no summons shall be quashed or set aside for any defect therein, if it be sufficient on its face to show what is intended thereby.

Summons for the recovery of specific property.

Persons sued jointly; when separate summons may issue, etc.

27. When two or more persons are jointly liable to the action, a separate summons, if the plaintiff require it, may be issued at the commencement of the action, or at any time thereafter, against any one or more of them, and be directed and served as provided in section seventeen of this chapter, but the summonses issued at the commencement of the action must all be returnable at the same time, and the summons against every such defendant separately must state who are sued with him.

How party may be designated in summons where his right name is not signed to a paper, or is unknown.

28. When a party to any note or instrument of writing has signed or endorsed the same with the initials, or some contraction of his name, or of his first name, or by a fictitious name, he may be designated in the summons as he is in such signature or endorsement, if suit be brought on such note or instrument of writing. When the name of a defendant is not known to the plaintiff, the summons may be issued against him by a fictitious name, or any description to designate the person intended, and shall not be set aside or dismissed for that cause, if served on the proper person; and in any case in which a defendant shall be proceeded against by any other than his true name, it shall be the duty of the justice, when his true name is ascertained, to amend the summons by inserting the same therein, and thereafter to proceed against him by his true name.

Summons to be amended when true name is ascertained.

When new summons may issue.

29. A new summons may, if the plaintiff desire it, be issued against a defendant when there has been no service, or return of the former summons, and the same shall be endorsed, by the justice issuing it, "second summons," or "third summons," as the case may be.

#### *Appointment of Special Constables.*

30. Whenever it shall satisfactorily appear to a justice

issuing a summons, attachment or warrant of arrest in a civil action, or a warrant in a criminal proceeding, that a necessity exists therefor, he may appoint a special constable to execute the same, either by directing such process to such special constable by name as follows: "To A—B—, who is hereby appointed a special constable to execute this process," or by endorsing such appointment on said process.

Special constable; when and how appointed.

How designated

31. The justice shall note such appointment in his docket, and the person so appointed shall have all the powers, perform all the duties and be subject to the same penalties in relation to such process, as a constable duly elected and qualified.

Justice to note appointment in his docket.

*Service of Process and Notices.*

32. If the defendant be found, the process, order or notice, unless person or property is to be taken in custody, or it be otherwise specially provided, shall be served by reading the same to him, or stating its contents and informing him of the time and place at which he is required to appear and answer the action, or by delivering him a copy thereof; and such copy shall always be furnished if demanded. If he be not found, it may be served at his usual place of abode, by delivering a copy thereof, and giving information of its purport to his wife, or if she be not found there, by delivering such copy and giving information of its purport to any person found there who is a member of his family and above the age of sixteen years, or if no such person be found there, by posting a copy thereof on the front door of such abode.

Service of process; how made.

Copy shall be furnished if demanded.

Service by delivering copy to wife or member of family.

33. An acknowledgment in writing of the service of such process, order, or notice by the defendant, his agent or attorney, or his appearance to answer the action, is equivalent to personal service.

Service by written acknowledgment.

34. Unless otherwise specially provided, such process or order and any notice against a corporation may be served upon the president, cashier, treasurer or chief officer thereof, or if there be no such officer, or he be absent, on any officer, director, trustee or agent of the corporation at its principal office or place of business.

How served on corporation.

35. If the suit be against a foreign corporation doing business by an agent in this State, service may be made by delivering a copy of the process, order, or notice to such agent, or leaving such copy at the office or place of business of such corporation with any person found at the time in charge thereof.

How on foreign corporation.

36. Service on foreign insurance or express companies may be made in the manner specified in the preceding section, or as provided in the fifteenth section of chapter thirty-four of the Code.

How made on foreign insurance and express companies.

How made  
against bank of  
circulation.

37. If a suit against a bank of circulation be brought in the county where it has a branch, service on the president or cashier of the branch is sufficient.

When service  
must be made.

38. Service on any person under either of the last four sections shall be in the county in which he resides; and the return must show this, and state on whom and when the service was, otherwise the service shall not be valid.

How process and  
notices to be  
served in case of  
infants.

39. After suit has been commenced by or against a minor, and a guardian for the suit has been appointed for him, all notices to be given by the adverse party in the suit shall be served upon such guardian, and such service shall be sufficient. But with this exception, when the person upon whom process or an order or notice is to be served is a minor, a copy thereof shall be delivered to him, if he be over the age of fourteen years, and be found within the county, and if he be under that age, it shall be served on his guardian or father; or if neither be found, then upon his mother, or the person having the care or control of such minor, or with whom he lives; if neither of them be found, or the minor be over the age of four-teen years, and no guardian for the suit shall have been previously appointed for him, service on such minor shall be sufficient.

#### *Arrest of Defendant Before Trial.*

Arrest of de-  
fendant before  
trial.

Affidavit to be  
filed; what to  
show.

40. An order for the arrest of a defendant in a civil action may be made by the justice before whom the action is brought, when there is filed in his office an affidavit of the plaintiff, or any credible person, made before any person authorized to administer oaths, showing to the satisfaction of the justice the nature of the plaintiff's claim, that it is just, the amount thereof, as near as may be, and the existence of one or more of the following particulars:

*First*—That the defendant has removed or is about to remove his property or a material part thereof, out of the State, with intent to defraud his creditors; or,

*Second*—That he has converted or is about to convert his property, or a material part thereof into money or securities, with the like intent; or,

*Third*—That he has assigned, disposed of, or removed his property or a material part thereof, or is about to do so, with like intent; or,

*Fourth*—That he has property or rights in action which he fraudulently conceals; or,

*Fifth*—That he fraudulently contracted the debt or incurred the liability for which the action is to be or has been brought; or,

*Sixth*—That the defendant, being a resident of this State is about to depart therefrom and reside out of the State, without having paid the plaintiff's demand against him.

41. The order of arrest shall not be issued until the plaintiff, or some responsible person for him, shall execute and file with the justice a bond, with good security, to be approved by the justice, in such penalty as the justice shall prescribe, but not less in any case than one hundred dollars, conditioned that the plaintiff will pay the defendant all damages he may sustain by reason of the arrest should it thereafter appear that the order of arrest was wrongfully obtained. The circuit court of the county, or the judge thereof in vacation, may upon reasonable notice in writing to the plaintiff, his agent or attorney, discharge any person arrested under such order from custody if it be made to appear by the evidence offered or otherwise that said order was wrongfully obtained.

Plaintiff to file bond

Circuit court or judge may, on notice, discharge any person arrested.

42. The order of arrest may accompany the summons or be made at any time afterwards before judgment. It may be directed like a summons, and may be executed out of the county in which the action is pending, if the defendant escape from or be out of such county. It shall state the names of the parties, the amount of the plaintiff's claim as stated in the affidavit, be signed by the justice issuing it, and require the person who is to execute it to arrest the defendant and bring him forthwith before the justice.

Order of arrest, when issued.

May be executed out of the county; when.

43. The officer receiving the said order shall, as soon as possible thereafter, arrest the defendant, and, unless the plaintiff's claim and the costs are paid, or the defendant is discharged by order of the plaintiff, take him forthwith before the justice and keep him in custody until discharged according to law.

How executed.

Defendant to be kept in custody.

44. Upon the return of the summons and said order executed, the trial shall proceed, if such return be made on the return day of the summons, or on any day, to which the trial has been continued, unless for good cause shown by either party, or at the instance of the justice himself, the same be continued. If the trial be continued for any period, or the defendant be brought before the justice before the return day of the summons, or after that day, and before the day to which the trial has been continued, as aforesaid, the defendant shall be discharged from custody upon executing, with one or more sufficient sureties, a bond to be filed with the justice, with condition to the effect, that if a judgment be rendered in the action against the said defendant, he will either satisfy the same or render himself to answer the process on such judgment. But in no case shall the defendant be detained in custody where such continuance is for more than forty-eight hours, unless it was made at the instance, or with the consent of the defendant himself.

Proceedings thereon.

*Security by Plaintiff for Costs.*

45. If a person who intends to bring an action before a



When justice may require plaintiff to give security for costs.

justice is not a resident of the State, the justice may require security for the costs before issuing the summons. And if the summons be issued without such security having been given, the defendant may demand the same, and the action shall not proceed till it be given. And when a plaintiff after suit is begun removes from the State, the justice or defendant may also require security, as well for the costs already accrued as for those that may accrue thereafter. If the plaintiff, after being notified of this requirement, fail to comply therewith within the time prescribed by the justice, or to show cause why he should not do so, the justice shall dismiss the suit and give judgment against him for costs.

Security; how given.

Bond, etc.

Conditions of bond.

46. Security for costs may be given either by depositing with the justice such sum as the latter shall deem sufficient, or by a bond with good security, to be approved by the justice, in such penalty as the justice shall prescribe, with condition to pay to the justice the costs incurred at the plaintiff's instance, when demanded, and that if judgment be given against him in the action, he will pay the defendant's costs when demanded.

How and what judgment may be given on such bond.

47. When such bond has been given, the justice, on notice or summons served on the persons, or any of them who signed the same, may render judgment thereon against the person or persons so served, for the costs remaining unpaid in the action for which the plaintiff is liable, together with the costs of the proceeding against such person or persons and such judgment may be in his own name, or in that of the defendant, and may be enforced in the same manner as other judgments.

*The Plaintiff must Sue for his Whole Claim.*

Plaintiff must sue for his whole claim.

48. When the plaintiff has several demands against the same defendant founded on contract, express or implied, he must bring his action for the whole amount due and payable at the time such action is brought, whether the demands be such as might have been heretofore joined in the same action, or not. If he bring his action for part only, the judgment in the suit, whether for or against him, shall bar him from recovering the remainder. But if he have judgment, or an action pending for any demand, he may sue for another demand afterwards acquired or becoming due and payable, without joining both demands in the same suit, and the judgment in one suit shall not bar the other. And any demand against two or more persons shall not be joined in the same action with one against part of said persons only; nor a demand against a person in his own right with one against him in a representative capacity.

Exception.

*Form of Action.*

Forms of action abolished

49. The forms of action now existing shall not apply to

justice's courts, and there shall hereafter be but one form of action in said courts, which shall be denominated a civil action. in Justice's courts.

*Rules of Proceeding.*

50. The following rules of proceeding shall be observed in justice's courts: Rules of proceeding in justice's court.

I. The pleadings in these courts are— Pleadings.

*First*—The complaint by the plaintiff.

*Second*—The answer by the defendant.

II. The pleadings may be oral or in writing; if oral, the substance of them shall be entered by the justice in his docket; if in writing, they shall be filed by him and a reference to them be made in the docket. In either case, if the parties appear and the defendant make defense they shall be made up on the return day of the summons, unless good cause be shown to the contrary. May be oral or in writing.

III. The complaint shall state in a plain and direct manner the facts constituting the cause of action, and if more than one cause of action be stated therein, each shall be separately stated and numbered. Cause of action; how stated.

IV. The answer of the defendant may contain— Answer of defendant.

*First*—A denial of the complaint or some part thereof;

*Second*—A statement of the facts constituting a defense or counter-claim.

V. Such pleadings are not required to be in any particular form, but must be such as to enable a person of common understanding to know what is intended. No particular form required.

VI. Either party may except to a pleading of his adversary when it is not sufficiently explicit to be understood, or it contains no cause of action or defense. Either party may except; when.

VII. If the justice deem the exception well founded he shall order the pleading to be amended, and if the party refuse to amend, the defective pleading shall be disregarded. Justice may order pleading to be amended.

VIII. In an action or defense founded upon an account, note, or other writing for the payment of money, it shall be sufficient for the party to deliver the account, note, or other writing to the justice, and to state that there is due to him thereon from the adverse party a specific sum, which he claims to recover or set off in the action. Action on account, note, etc; delivery of sufficient.

IX. A variance between the proof on the trial and the allegations of a pleading shall be disregarded as immaterial, unless the justice shall be satisfied that the adverse party has been misled to his prejudice thereby. Variance between proof and allegation to be disregarded. Exception.

X. The pleadings may be amended at any time before the trial, or during the trial, when by such amendment substantial justice will be promoted. If the amendment be made during the trial, and it be shown to the satisfac- Pleadings may be amended.

Continuances  
in certain cases  
granted

Costs of continu-  
ance.

Account;  
items of to be  
filed.

tion of the justice by the oath of the opposite party, or his agent or attorney, that a continuance of the cause is necessary in consequence of such amendment, a continuance shall be granted, and the justice may, in his discretion, require the party making the amendment to pay the costs of such continuance.

XI. The justice may, at any time before the trial, require either party, at the request of the other, at that or some other specified time, if the action or defense be founded upon an account, to file a complete statement of the items thereof with his complaint or answer, and in case of his default, may preclude him from giving evidence at the trial of any item not so filed.

#### *Answer of Title.*

Answer of title.

Justice to dis-  
miss action  
when in ques-  
tion.

If answer of  
title be not  
filed, justice  
to have juris-  
diction.

12. If the defendant in any action brought in such court claims that the title to real property will come in question therein, he may, either with or without other matter of defense, set forth in his answer the facts showing that such title will come in question on the trial thereof. Such answer shall be in writing, and shall be verified by the affidavit of the defendant or his agent or attorney. Upon the filing of such answer, if the justice be of opinion that the facts therein stated show that the title to real property will so come in question, he shall dismiss the action at the costs of the plaintiff, unless the plaintiff, or his agent or attorney, shall file an affidavit denying the truth of such facts, in which case the action shall not be dismissed. If, however, it shall appear on the trial of the cause, that the title to real property is properly in question between the parties, and that the relation of landlord and tenant does not exist between them, the justice shall dismiss the action at the costs of the plaintiff. But if no such answer of title be filed by the defendant, the justice shall have jurisdiction of the cause, and the defendant shall not be permitted, in his defense, to dispute the title of the plaintiff to the premises in question.

#### *Bonds, Notes, etc., Sued on Must be Filed With the Justice.*

Bonds notes,  
etc., sued on,  
must be filed  
with justice.

51. If the action of the plaintiff, or the credit or set-off of the defendant, be founded on any bond, promissory note, bill of exchange, or other instrument of writing, it shall be filed with the justice, unless good cause be shown why it cannot be so filed; and when judgment is rendered, the justice shall endorse upon such instrument the title of the suit and the amount allowed in the judgment to the plaintiff or defendant on account of the same. If the instrument be payable in installments, he shall also specify in the endorsement for which of the installments such allowance was made, and no suit or suits shall thereafter be instituted between the same parties, or

those claiming under them, for the matter so adjudged and decided. The justice shall retain the instrument and file it with the papers relating to the suit, unless an appeal be taken from the judgment, in which case, the same shall be transmitted to the clerk of the court to which the suit is transferred by the appeal, or unless be grant leave to the person entitled thereto to withdraw such instrument, on filing a copy, for the purpose of recovering another installment, or bringing suit thereon against a different party.

His duty in such cases.

*Set-off.*

52. If the plaintiff's demand in the action be founded on judgment or contract, express or implied, the defendant in the following cases may set off demands which he has against the plaintiff: Set-off.

*First*—The demand to be set off must be founded on judgment or contract, express or implied. In what cases allowed.

*Second*—If it be founded on a bond or other contract, sealed or without seal, having a penalty, the sum equitably due by virtue of its condition, and not the penalty, shall be set off.

*Third*—It must have belonged to the defendant at the time the plaintiff's suit was commenced.

*Fourth*—If the plaintiff's demand be against several defendants, the set-off must have belonged to all the said defendants jointly at the time the suit was commenced.

*Fifth*—If there be several plaintiffs suing jointly, the set-off must be a joint demand against them all.

*Sixth*—If the plaintiff be merely a trustee for another, or if the suit be in the name of a plaintiff who has no real interest in the claim sought to be thereby enforced, the set-off must be a claim against those whom the plaintiff represents, and for whose benefit the suit was brought. A claim against a nominal plaintiff shall not in such case be allowed as a set-off.

*Seventh*—In suits brought by executors or administrators for any cause of action existing at the time of the death of the person they represent, whether then due and payable or not, the set off must be a claim against the deceased, or against his estate in the hands of the said representatives. But if such suits be founded on any transaction or contract subsequent to the death of the testator or intestate, claims against the deceased which existed in his lifetime shall not be set-off without the assent of his executors or administrators.

*Eighth*—The claim to be set-off must be due and payable at the time of trial. But the plaintiff in such cases may file and prove any counter set-off or counter claim he may hold against any set-off or counter claim filed by the de-

defendant, and may make such other defenses thereto as he might have made had an original action been brought upon such set-off or counter claim; and upon a trial, the true state of the claims of the parties shall be ascertained and judgment rendered accordingly.

How judgment rendered in case of set-off.

53. If the claim of the defendant proved on the trial be equal to that of the plaintiff, judgment shall be entered for the defendant, with costs. If it be less, the plaintiff shall have judgment for the residue only, with costs. If it be more, and the balance found due to the defendant from the plaintiff do not exceed three hundred dollars, exclusive of interest and costs, or the defendant release the excess, judgment shall be rendered for the proper amount, with costs, in favor of the defendant, and execution be awarded thereon, as if the judgment had been obtained in an action brought by the defendant.

Ibid.

54. If the balance found due the defendant exceed the amount to which the jurisdiction of the justice is limited, and the defendant do not release the excess, judgment shall be rendered for the defendant for costs; and the defendant may thereafter recover the balance due him in any court having jurisdiction.

When defendant must file his set-off, etc., or forfeit his claim.

55. If the defendant, at the time the plaintiff's action is commenced, has any credit, or set-off, or counter claim to allege in defense or reduction of the plaintiff's demand, and be personally served with process in the suit, or appear and answer the action, he shall produce the same, with his evidence in support thereof, in the cause, or be forever precluded from maintaining any action for the recovery thereof. And if the plaintiff, in the cases provided for in the fifty-second section, has any credit, set-off or counter claim to allege in defense or reduction of the defendant's set-off or counter claim, and fail to produce and claim the same, he shall, in like manner be forever precluded from maintaining an action for the recovery thereof.

Same provision as to plaintiff, as to credit, or counter-claim against set-off.

Preceding section not to apply to certain cases.

56. The preceding section shall not, however, apply to the following cases:

*First*—When the set-off or counter-claim shall exceed the plaintiff's demand more than three hundred dollars, exclusive of interest; in which case the person to whom it is owing may, at his option, sue for the whole amount in any court having jurisdiction, or set-off so much as will cover the plaintiff's demand, and sue for the excess.

*Second*—When the set-off consists of a judgment rendered before the commencement of the suit in which the same might be set-off.

*Third*—Claims in suit before any other court or justice at the time of the commencement of the action.

If defendant file set-off, etc.,

57. In cases in which a defendant has filed a set-off or

counter-claim, he may proceed to trial though the plaintiff fail to appear or dismiss his action. when defendant may proceed to trial, etc.

*Continuances.*

58. On the day the summons is returnable the defendant upon making oath, that he has just defense to the suit, or is justly entitled to a credit or set-off not admitted by the plaintiff, may demand of right a continuance of the cause for seven days; and such continuance shall be at the costs of the plaintiff or defendant according to the result of the action. Continuances when and how granted. How long. Costs to follow result of action.

59. On the return day of the summons, if the defendant be not in custody, the justice may without the consent of either party, continue the cause for not over seven days; but he shall not exercise this privilege at any other time, unless in case of sickness or necessity. If the defendant be in custody, he shall be discharged therefrom if the cause be continued for more than forty-eight hours without his consent. Justice may continue action in certain cases. When defendant discharged from custody.

60. When a defendant is not in custody, the justice on the return day or any subsequent time appointed for the hearing, may continue the cause on application of either party, without the consent of the other, on the applicant showing, by his oath, or otherwise, that he cannot safely proceed to trial for want of some material paper, evidence or witness, and that he has used reasonable diligence to procure the same, and will probably be able to do so, if time be granted. The continuance shall, in such case, be for a reasonable time, to enable the applicant to obtain the paper, evidence, or witness referred to. When cause continued on application of either party; and for what. To be for a reasonable time.

61. But, unless both parties consent, no continuance shall be granted to a time beyond three months after the return of the summons served. No continuance longer than three months, unless, etc.

62. Every continuance on the application of a party shall be at his cost, except as provided in the fifty-eight section, or when one party has subpoenaed his adversary to testify as a witness and he fails to attend or refuses to testify. If the cause is continued on account of such failure or refusal, the party subpoenaed shall pay the costs occasioned thereby unless good cause be shown for such failure or refusal. Continuance to be at cost of applicant.

63. If the cause be not continued, the trial shall take place on the return day of the summons, if the same has been served, or at the time set for trial when the last previous continuance was made. Trial; when to take place.

64. No action shall be discontinued on account of the absence of the justice. If he fail to attend on the return day of the summons, or at the time to which the action stands continued, any other justice of the same county may attend and try the case, or continue it for not exceed- Action not to be discontinued on account of absence of justice. Another justice may attend.

**Action to stand adjourned from week to week until disposed of.** ing thirty days; and if he do so, shall make and sign an entry thereof on the docket of the absent justice. If not tried or continued by another justice as aforesaid, it shall stand adjourned for one week; and so on, from week to week until disposed of.

*Appearance—Default of Parties.*

**Appearance of parties; must be in one hour after time named, etc.**

65. The parties are entitled to one hour in which to appear, after the time for appearance mentioned in the summons or order of continuance. Neither shall be bound to wait for the other longer than that time; and at the end of the hour, or sooner, if both parties be in attendance, the justice shall proceed in the cause, unless at the time engaged in the trial of another action.

**When judgment dismissing action may be rendered against plaintiff for costs, etc.**

66. Saving the right of a defendant, who has filed a set-off or counter claim, to proceed to trial, though the plaintiff fail to appear, or dismiss his action, judgment may be rendered against the plaintiff dismissing his action, with cost, but without prejudice to a new action for the same cause, in the following cases:

*First*—If he fail to appear and prosecute his action within one hour after the time for appearance mentioned in the summons, or last order of continuance.

*Second*—If he fail to make or file his complaint at or before the time the summons is returnable.

*Third*—If he fail or refuse to testify when properly required to do so.

*Fourth*—If he fail to give security for cost when properly required to do so.

*Fifth*—If the summons be defective or erroneous and cannot properly be amended.

*Sixth*—If the plaintiff himself dismiss his action. But in the first, second and third class of cases, the plaintiff may show cause, if he can, why his action ought not to be dismissed. The action shall also be dismissed at plaintiff's cost, whenever it appears that it has been brought in the wrong county, or that for any other reason the justice has not jurisdiction thereof.

**Exceptions.**

**Judgment against defendant for failing to appear may be set aside; when.**

**Defendant to have notice.**

67. The judgment against the plaintiff for failure to appear may be set aside by the justice, for good cause shown, within fourteen days after it is rendered, on such conditions as he may see fit to impose; but the defendant must have reasonable notice of the motion to set aside such judgment, and an opportunity to be heard in opposition thereto.

**If defendant fail to appear, plaintiff must prove his case**

68. When a defendant does not appear the plaintiff cannot recover without proving his case. The justice, if the process has been served on the defendant, shall, in such

case, proceed to hear the allegations and evidence of plaintiff, and render judgment as the right shall appear. to obtain judgment.

69. When the summons is issued against two or more defendants, but not served on all of them, and those not served do not appear to answer to the action, the plaintiff may proceed to judgment as to the defendants on whom the summons was served, or who appears as aforesaid, and either dismiss his action as to the others, or have a second or third summons against them, and from time to time, as the process is served, proceed to judgment against them. Proceedings where summons served only on part of defendants.

70. When the defendant does not appear, and judgment is rendered against him in his absence, the justice may set aside the judgment within fourteen days thereafter, on motion of defendant and payment of costs. But of such motion, reasonable notice must be given to the plaintiff, his agent, or attorney; and the judgment shall not be set aside, unless the defendant makes oath that he has a lawful defense to the action, or is entitled to some credit, set-off, or counter-claim, which has not been allowed him, and shows by his own oath, or otherwise, reasonable cause why he did not appear. When the judgment is so set aside, the justice shall set a day for the trial, of which the plaintiff, his agent, or attorney, if not present, must have at least three days' notice. If judgment be entered a second time against the defendant, it shall not again be set aside. Judgment against defendant in his absence; when and how set aside. Proceedings thereon.

*Trial—the Jury.*

71. At the time appointed for the hearing, if a jury be not demanded by either party, the justice shall hear the proofs and give judgment as the law and evidence shall require. Trial by justice.

72. Either party to a civil action before a justice, when the value in controversy or the damages claimed exceed twenty dollars, or the possession of real estate is in controversy, shall be entitled, under the regulations herein proscribed, to a trial by six jurors, if demanded. When to be by jury; may be demanded by either party.

73. The demand must be made before the justice has commenced an investigation of the merits of the case, by the examination of any witness, or the hearing of other evidence. When jury must be demanded.

74. The party demanding the jury must deposit with the justice three dollars, to pay the fees of such jury. *Provided*, That the party demanding such jury may file his affidavit that he is unable, pecuniarily, to make such deposit, and the justice, if satisfied of the truth of the affidavit, shall issue the *venire facias* for the jury without such deposit being made. Deposit of money to pay costs of jury to be made with justice. Exceptions as to persons unable to make deposit.



When trial must take place.

75. When a jury is to be called, the trial shall be postponed until the time fixed for the return of the jury, which, if neither party show good cause for a later day, shall be on the same day or within the next two days.

Who are qualified as jurors.

76. All male persons of sound judgment, who are twenty-one, and not over sixty years of age, and who are otherwise qualified to serve, shall be liable to serve as jurors, except as provided in the following section.

Who are exempt from serving on juries.

77. The following persons shall be exempt from serving as jurors: the governor; members of both branches of the legislature and their respective officers during the session, and for ten days before and after the same; the secretary of state, treasurer, auditor, attorney general, state superintendent of free schools, and the clerks in their respective offices; judges and officers of the several courts of this state or the United States; sheriffs, deputy sheriffs; marshals and deputy marshals; sergeants of towns; superintendents of the penitentiary, hospital for the insane, institution for the deaf, dumb and blind, and of public hospitals, and their servants and assistants; ministers of the gospel having charge of any congregation or circuit; school teachers having charge of a school; millers and ferrymen whose attendance is necessary at any grist mill or ferry; keepers of toll-gates on any public road; members of volunteer companies, as provided in the eighteenth section of chapter twenty-three; the officers (not including directors) of the several banks and branches, and of national banking associations; practicing attorneys and physicians; telegraph operators employed at the time in any office in this state, and postmasters and their clerks, and persons engaged in the care and transportation of the mail, or other service of the United States. But a person exempt shall not, for that cause, be deemed incompetent, if he do not object to serve as a juror.

Jurors must be impartial and not related to parties.

78. The jurors must be persons who stand impartial between the plaintiff and the defendant, and are not related to either party or interested in the action.

Jurors to be examined on oath if required by either party, etc.

79. The justice, if either party to the action require it, or the party himself, may examine on oath any person who is called as a juror in such action, to know whether he is related to either party, or has any interest in the case other than such as he may have in common with other residents and tax payers of the district, county, town, or state, or has formed an opinion, or is sensible of any bias or prejudice in the case; and the party objecting to the juror may introduce any other competent evidence in support of the objection. If it appear to the justice that the juror does not stand indifferent in the case, another shall be placed in his stead for the trial thereof.

No exception

80. No exception to a juror on account of age or legal

disability shall be allowed after he is sworn, unless by leave allowed after jurors sworn. Exception. of the justice; but if the justice require it, a juror may be set aside at any time, and another placed in his stead.

81. No irregularity in any writ of *venire facias*, or the service thereof, or in selecting, or empanelling the jurors, shall be sufficient to set aside a verdict, unless it appear Verdict of jury not set aside for certain irregularities. that the party making the objection, was injured thereby, or such objection was made before the jury was sworn.

82. When a party demanding a jury, shall have made the deposit required by the seventy-fourth section of this chapter, or such deposit has been dispensed with, as provided in said section, the justice shall issue a *venire facias*, directed to any constable of the district, or in the county, commanding him to summon six qualified jurors, to appear at the time and place stated therein, to serve as a jury in the trial of the action between the plaintiff and defendant. When *venire facias* issued. And it shall be the duty of the constable, or person who may be deputed to serve the same, to execute the said process, and to return the same, with the names of the jurors summoned in obedience thereto, on the return day named therein. How directed and executed. Duty of constable in relation thereto.

83. Any person so summoned who fails to appear, or when in attendance refuses to serve on the jury, without sufficient cause, may, after notice and an opportunity to be heard, be fined by the justice not exceeding five dollars, and adjudged to pay the cost of the proceeding for such failure or refusal. The justice shall make an entry thereof on his docket, which shall have the effect of a judgment in favor of the State for the fine and cost, and may be enforced like other judgments of justices. Penalty on person summoned who fails to attend. How enforced.

84. If a sufficient number of competent jurors be not obtained as aforesaid, the justice, in order to supply the deficiency, may direct the constable, or person deputed, to call and summon bystanders, or other persons, to serve as jurors. Deficiency in panels of jurors. How made up.

85. The plaintiff and defendant shall each be entitled to two peremptory challenges in making up the jury, and the persons so challenged shall not be permitted to serve thereon. Each party to have two challenges.

86. The jury shall be sworn by the justice well and truly to try the matter in difference between the plaintiff and defendant, and a true verdict give according to the evidence. Jury; how sworn.

87. After the jury are sworn, they shall sit together and hear the allegations and proofs, of the parties, which shall be delivered publicly in their presence; and when they have heard the same, they shall be kept together in some convenient place, under charge of a constable or person deputed by the justice, until they have agreed on their verdict or discharged by the justice. Proceedings after jury sworn.

Verdict of jury.

88. When they have agreed on their verdict, they shall deliver it publicly to the justice, signed by one of their number, as foreman; and the justice shall enter the same in full in his docket.

Where jury cannot agree; duty of justice.

89. Whenever the justice is satisfied the jury cannot agree, he may discharge them and issue a new *venire facias*, returnable within forty-eight hours, unless the parties agree on a longer time, or agree to dispense with a jury in future, or that the justice may himself render judgment on the evidence already heard before him, which, in such case, he may proceed to do.

Pay of Jurors.

90. On the verdict being delivered to the justice, if the deposit mentioned in the seventy-fourth section of this chapter has been made, each juror shall be entitled to receive from him fifty cents out of the money so deposited in his hands by the party who demanded the jury. When the jury are unable to agree, or the trial by jury is dispensed with, the same compensation shall be paid them out of the said money. If the final judgment in the action be in favor of the party who demanded the jury, the amount so paid shall be included in the cost awarded against the adverse party. And when such costs are collected in cases where no deposit was made, the fees of the jury shall be paid therefrom.

Judgment for jury costs.

When verdict of jury may be set aside

91. If the justice believe the verdict to have been procured by fraud or undue means, or to be the result of partiality or prejudice, or to be manifestly contrary to law or the evidence, he may, within twenty-four hours after the return of such verdict (Sundays excepted), on the motion of the party injured, set it aside, and award a new trial in the case, upon payment of the costs of the former trial, or with costs to abide the event of the action, as he may deem proper. In such case he shall appoint a time for a new trial, and issue a *venire facias* for another jury, if demanded by either party, in accordance with section seventy-four of this chapter. But no more than one new trial shall be granted by a justice in any case.

Proceedings in such cas:

#### Arbitration.

Arbitrators; how appointed in cases before justices.

92. At any time before judgment, the plaintiff and defendant may, by mutual agreement, have the cause submitted to the arbitrament of three disinterested men, chosen by themselves; and if the arbitrators be present, they shall hear and determine the matter in difference between the parties, being first sworn by the justice, impartially, to decide the same according to the law and the evidence. But if they be not present, a time and place shall be appointed by the justice for the trial, unless the parties agree on the same, and the justice shall, if necessary, issue a summons to the arbitrators to attend. The fees of arbitrators shall be the same as those of jurors.

93. When the arbitrators attend at the time and place so appointed, being first sworn as aforesaid, they shall hear and determine the cause, and make their award in writing, (which shall be valid when signed by any two of them), and return the same to the justice, who shall enter a note thereof on his docket, and render judgment thereon, and issue execution as in other cases. But continuances may be granted as in other cases.

Proceedings of arbitrators in such cases.

94. Every judgment on such award shall conclude the rights of the parties, unless within fourteen days from the rendition of such judgment, it be made to appear to the satisfaction of the justice, that the award was obtained by mistake, fraud, corruption, or other undue means. In such case, the award and judgment may be set aside by the justice, and the cause be tried as if the arbitration had not been agreed upon.

Judgment on award to be conclusive; exception.

95. No appeal shall be granted or allowed from the judgment of a justice rendered on an award.

No appeal from judgment on award.

96. If, after the arbitration has been agreed upon as aforesaid, the award be not returned to the justice within fourteen days, the justice, on the application of either party, the other having reasonable notice, may, in his discretion, set aside the agreement, and thereafter proceed to trial and judgment as in other cases.

Justice may set aside agreement for arbitration in certain cases.

*Witnesses—Evidence.*

97. A justice may issue subpoenas for witnesses residing or found in the county, and compel their attendance, in any suit pending before him, or in any matter respecting which he may lawfully take depositions.

How and when witnesses compelled to attend before justice.

98. A subpoena may be served by an officer, a party to the suit, or any other person. When not served by an officer, the affidavit of the person who served it will be evidence of service.

Subpœna, by whom served; in what case affidavit of service required.

99. Whenever either party in an action pending before a justice, makes oath that the testimony of a witness, residing in any county adjoining that in which the suit is pending, is material to him in the trial of the cause, the justice may continue the cause at the cost of such party for a period not exceeding two weeks, and forthwith issue a subpoena for such witness, which subpoena may be directed to a constable of the county in which the witness resides, and be served by such constable, or any other person, as in other cases.

When witness may be summoned from another county.

Continuance of cause in such cases.

100. A witness in a civil suit is entitled, at the time the subpoena is served, to demand payment of his legal fees for traveling to and from the place of trial, and one day's attendance. If he demand them at such time, and they are not paid, he is not obliged to attend the trial before the

Witness may demand fees in advance.

If not paid, he is not obliged to attend.

- justice. but if at the time of issuing such subpœna, or afterwards, the party for whom it is issued, file his affidavit with the justice that he is unable pecuniarily to pay the fees and mileage of his witnesses, the justice, if satisfied of the truth of the affidavit, shall endorse on the subpœna the fact of such affidavit having been made, and in such case the witness shall attend without the prepayment of fees or mileage.
- Exception.**
- Fees, etc., of witnesses.** 101. A person attending as a witness under a subpœna, shall be allowed fifty cents for each day's attendance, and five cents for each mile necessarily traveled to the place of attendance, and the same for returning, and also the tolls and ferriages paid by him.
- Number of witnesses restricted, etc.** 102. Any party calling more than two witnesses to any fact which is not contradicted by another witness, shall pay the costs of such additional witnesses, unless otherwise ordered by the justice.
- Claim for attendance to be made before judgment.** 103. No claim for attendance shall be allowed a witness, unless made before judgment is entered.
- Penalty for failure of witnesses to attend etc.** 104. Whenever it shall appear, to the satisfaction of a justice, that any person has been duly served with a subpœna to give evidence before him in any matter in which he has the authority to require such witness to appear and testify; that his evidence is material; and that he fails, or refuses to attend, as required by such subpœna such person, on reasonable notice, and an opportunity of being heard, if he do not show sufficient cause for such failure or refusal, may be fined by the justice not exceeding ten dollars, and adjudged to pay the costs of the proceeding against himself. An entry of such fine and costs, stating the reason therefor, must be made by the justice in his docket, and shall have the effect of a judgment in favor of the state, and may be enforced as other judgments of justices. When a person in attendance refuse to testify, without showing sufficient cause, he shall be subject to like penalty.
- Witness also liable for damages, etc.** 105. Every person subpœnaed as aforesaid, and failing or refusing to appear and testify, without sufficient cause, and every person present at the trial and refusing to testify, without such cause, shall also be liable to the party requiring his evidence, for all damages such party may sustain by such failure or refusal.
- Depositions; must be taken on notice, etc.** 106. No deposition of any person shall be given in evidence on the trial on behalf of either party, if the other object, unless the party against whom it is offered had reasonable notice of the taking thereof, and was allowed freely to cross-examine the witness, subject to the rules of law.
107. If a witness offered at the trial be objected to as

incompetent, the objection shall be tried and determined by the justice. The proposed witness may be examined on oath touching the question of his competency, and other evidence may be given in support of or against the objection.

Competency of witness; how tried.

108. The following persons are incompetent to testify, as hereinafter provided, and not otherwise:

Who are incompetent to testify.

*First*—Persons of unsound minds, and children who appear incapable of receiving just impressions of their obligations to tell the truth, or the facts respecting which they are to be examined.

*Second*—Husband and wife, concerning any communication made by one to the other during the marriage, whether called to testify while the relation subsists or after it is dissolved.

*Third*—An attorney, without his client's consent, concerning any communication made to him by his client touching the matter in which he is consulted or employed, or any counsel or advice given by him to his client.

*Fourth*—A minister, clergyman or priest of any religious denomination, concerning any confession made to him according to the course of discipline enjoined by the church to which he belongs.

*Fifth*—A physician or surgeon, without his patient's consent, concerning any communication made to him by his patient, which was necessary to enable him to prescribe and treat the case.

109. The execution of any written instrument, or of any assignment or endorsement thereof, produced at the trial, need not be proved, unless the adverse party, his agent or attorney, makes oath that he does not believe the same to be genuine.

When written instrument must be proved.

110. Depositions of witnesses residing out of the county, or sick, or otherwise unable to attend, or about to leave the county, may be taken by either party on reasonable notice to the other, to be used in trials before a justice; and no commissioner shall be necessary.

Depositions of witnesses.

How taken.

111. Such depositions shall be sent under seal to the justice before whom the case is to be tried, the officer taking the same, writing his name across the place where it is sealed. And if the witness, at the time of the trial, be absent from the county, or sick, or otherwise unable to attend, the deposition, if competent and proper evidence, may be read in evidence at the trial by either party.

When and how returned.

112. Every witness, before giving his testimony, shall be sworn that the evidence he will give relating to the matter in difference between the plaintiff and defendant shall be the truth, the whole truth, and nothing but the truth. A solemn affirmation shall, in all cases, have the same effect

Witnesses; how sworn.

Affirmation of.

Rules of evidence in justice's courts, same as in circuit courts, etc.

as an oath; and the rules of evidence in trials and proceedings before justices shall, unless otherwise provided, be the same as in the circuit courts.

### *Judgments.*

Judgments; offer to confess; how made, etc.

113. The defendant may either, before suit is brought, or at any time afterwards before trial, make an offer in writing to confess judgment in favor of the plaintiff for the sum or property specified in such offer. Such offer shall be served on the plaintiff by delivering to him a copy thereof, and the original, with proof of the service thereof, shall be filed with the justice at or before the trial. If the plaintiff fail to accept the said offer before trial, or to give notice to the defendant of such acceptance, and do not recover a more favorable judgment, the justice, on proof of such offer being made, shall adjudge the plaintiff to pay all costs of the action from the time of the offer. If the offer so made be not accepted, it shall not be given in evidence against the defendant.

When and how rendered.

114. When the plaintiff dismisses his action (except in the case mentioned in the fifty-seventh section), or judgment is confessed, or the defendant is in custody, or property is held under attachment, judgment shall be entered without delay. In other cases, judgment shall be entered within twenty-four hours (Sundays excepted) after the trial. The justice or jury shall, in all cases, ascertain the balance due (if any) from one party to the other, after allowing all claims and credits established by the party against whom judgment is to be rendered, and judgment shall be entered for the aggregate amount of principal and interest so ascertained to be due. Every judgment shall bear interest from its date, upon such amount.

To bear interest from date.

When judgment may be set aside.

115. In any case tried without a jury, in which it is not otherwise herein provided, the justice who rendered the judgment, may, on motion of either party, the other, his agent or attorney, being present, or having had reasonable notice of the motion, set aside the judgment, within two weeks after it is entered, and grant a new trial on such terms and conditions as he sees fit to impose. But this shall only be done when the justice is satisfied that injustice was done by the judgment to the party by whom the motion is made.

When judgment may be revived, etc.

116. A judgment may be revived in favor of or against the personal representative of a deceased party within three years after it is rendered, or (unless the three years shall have expired before the death of such party), within two years after his personal representative shall have qualified. And such revival may be by an order to that effect, entered on his docket by the justice who rendered the judgment, or his successor, on the motion of the party in whose favor

the judgment was rendered, or his personal representative, the other party, or his personal representative, agent, or attorney being present, or having had reasonable notice of such motion.

117. Judgments of justices may be docketed in the judgment lien docket kept in the office of the clerk of the county court, in like manner and with like effect, in all respects, as the judgments of circuit courts. Judgment may be docketed in county court clerk's office, etc.

118. The person in whose favor a judgment is rendered by a justice, or who is entitled to receive the money due thereon, or any part of it, may file in the clerk's office of the circuit court of the county in which the judgment was rendered, a transcript thereof, certified by the justice who has the lawful custody of the docket in which such judgment is entered; and the said clerk may issue executions thereon in the same manner, and with like effect as if the judgment had been rendered by the circuit court. The transcripts filed as aforesaid shall be entered by the clerk in his execution docket and indexed in the name of both plaintiff and defendant, and be filed in separate bundles for each year; for which service the clerk shall be entitled to a fee of fifty cents, to be paid by the person at whose instance the same is rendered. Transcript of may be filed, etc., in circuit court clerk's office.

119. No justice or constable shall purchase any judgment rendered in their county by a justice thereof. Every person violating this provision, shall, for every such offense, be fined not less than ten nor more than one hundred dollars. To be entered by clerk in execution docket.

*Suggestions on Judgments.*

120. On a suggestion by a judgment creditor, verified by affidavit, to the justice who rendered the judgment, or his successor, that any person, whether in the same or another county, has effects of the judgment debtor in his possession or control, not exempt by law from execution, or is liable to the debtor in any sum of money, whether then due and payable, or thereafter to become so, not exempt from the lien of an execution, the justice shall order such person and the judgment debtor to appear before him at the time and place specified in such order, and answer, under oath, respecting such effects and liability; and may also subpoena witnesses to testify concerning the same. Justice or constable not to purchase judgment rendered in their county, etc. Penalty.

121. The order shall be signed by the justice, and served and returned like a summons, but the exact time of the service shall be stated in the return. And the person suggested as having such effects, or as liable to the judgment debtor for a sum of money, shall from the time of the service thereof on him, be liable to the judgment creditor for whatever effects (real estate excluded), of the judgment debtor, not exempt by law from execution, were in his possession or control when the order was served, and Suggestions on judgment.

Proceedings thereon.

ibid.



whatever amount he was then liable for to the judgment debtor, not exempt from the lien of an execution, whether then due and payable or thereafter to become so, but so far only as may be necessary to satisfy the judgment, including the costs of the proceedings upon the suggestion. *Provided*, Such effects, or the sum of money for which any such person is so liable, shall not be liable to the judgment creditor, if the judgment debtor shall show to the satisfaction of the justice that he is a husband or parent, and is a resident of the state, and that his personal estate, including such effects and money does not exceed two hundred dollars. *And provided further*, That no such order shall be issued until the judgment creditor shall file with the justice a bond with good security, to be approved by such justice, in a penalty at least double the amount of his claim against the judgment debtor, with condition, that if he fail to have the property or money, or both, (as the case may be) in the hands of, or owing by the person suggested, applied to the payment of his claim, he will pay to the judgment debtor all such costs and damages as he may sustain by reason of the filing and trial of such suggestion.

*ibid.*

122. If the person against whom such order is issued, or any of them appear and answer, such person shall be examined under oath touching the money and effects for which the person so suggested is liable as aforesaid, and the justice shall hear any proper evidence respecting the same. If the person so suggested fail to appear, and it be shown that the order was served on him ten days, at least, before the time of appearance specified therein, the justice may hear proof respecting the money and effects for which such person is liable as aforesaid; or on motion of the judgment creditor, may appoint another time, and cause not less than ten days' notice to be given to the person so liable, that unless he appear and answer at the time so appointed, it will be taken as an admission that he has in his hands sufficient money of the judgment debtor to satisfy the judgment, including the costs of the proceedings on the suggestion. If he fail to appear at the time so last appointed, and it be shown that the notice was served not less than ten days before that time, or if at any time he appear and refuse to answer any proper question, and in either case no good cause be shown for such failure or refusal, the justice may proceed, as if he had admitted sufficient money to be in his hands. *Provided*, That, if the person so liable reside in another county, he may answer in writing, under oath, and such answer, if sufficient, shall be equivalent to his personal appearance and examination; or if insufficient, he shall be examined on interrogatories in writing, approved and allowed by the justice; and his failure to file with the justice his answers, under oath, to

such interrogatories, within two weeks after he has been served with a copy thereof, shall, unless good cause therefor be shown, be taken as an admission that he has in his hands sufficient money of the judgment debtor to satisfy the judgment, including the costs of the proceedings on the suggestion.

123. If it appear by the admission or examination of <sup>Ibid.</sup> the person against whom the proceedings on the suggestion are pending, or by other evidence, that he is liable for any money or effects of the judgment debtor, not exempt from execution under section one hundred and twenty-one, whether sufficient to satisfy the judgment or not, the justice shall order such person, if it be a sum of money, to pay the same to the judgment creditor, to be applied first to the costs of the proceedings on the suggestion, and the balance to the discharge of the judgment; but if it be shown that such sum of money is not yet due and payable, the order shall be for the payment thereof at the time, (to be stated in such order), when it will be due and payable. If such person be liable for effects other than money, the justice shall ascertain the value thereof, and order such person to pay the said value, or so much as will be sufficient, on a certain day to be specified in the order, to the judgment creditor, to be applied as aforesaid, unless such person on or before that day, deliver the said effects, or a sufficiency thereof, to the officer designated by the justice to receive the same. If effects be so delivered, they shall be sold as if taken on execution, under an order of sale to be made by the justice, and the proceeds to be applied as aforesaid.

124. Any order made by the justice pursuant to the pre-<sup>Ibid.</sup>ceding section, directing the payment of money by the person against whom the proceedings on the suggestion were instituted, may be enforced by execution against such person in the name of the judgment creditor, when such money is, or becomes due and payable; and an appeal shall lie from such order on behalf of any party interested, to the circuit court in like cases and manner as from other judgments of justices. The word "person," in this and the four preceding sections, shall be construed to include corporations as well as natural persons.

#### *Stay of Execution.*

125. The party against whom a judgment is rendered by a justice, may, within twenty days thereafter, obtain a stay of execution thereon, by filing with the justice a bond with good security, to be approved by the justice, in a penalty double the amount of the judgment, conditioned to the effect that the amount of such judgment, including interest and costs, will be paid at the expiration of the stay. The justice shall note the filing of the bond in his docket, stat-

Stay of execution; how obtained.

Bond to be filed.

ing the names of the parties signing the same, and the time of stay allowed. Upon such bond being so filed, if execution has been previously issued, it shall be recalled by the justice.

Bond to have effect of judgment.

126. If the judgment, with interest and costs, be not paid when the stay expires, the bond shall have the effect of a judgment, and the execution shall issue jointly against the judgment debtor and the parties who signed the bond. It shall be the duty of the justice to issue such execution within three days after the stay expires, unless otherwise ordered by the party who is entitled to receive the money to be collected thereon.

Length of stay.

127. When the judgment, exclusive of interest and costs, does not exceed fifty dollars, such stay shall be for two months; and if over fifty dollars and not over one hundred dollars, for four months; and if over one hundred dollars, for six months.

No stay allowed in certain cases.

128. No stay of execution shall be allowed in the following cases:

*First*—On any judgment upon a bond filed to obtain such stay.

*Second*—On the judgment rendered on any other bond filed with a justice or given to a constable pursuant to this chapter.

*Third*—On any judgment against a justice or constable for refusing or neglecting to pay as the law requires, money collected or received by such justice or constable in his official capacity; or against a constable for failing to make return, or making a false return of any process or order.

If surety pay judgment; his relief.

129. If any surety who signed the bond given to obtain a stay of execution, pay the judgment before or after the stay expires, the judgment against the principal shall remain in force for his use; and execution thereon may be issued by the justice on the application of such surety, after the expiration of the stay, with an endorsement on such execution showing for whom it is to be collected.

Justice may require additional security.

130. If the justice, at any time before the stay expires, become satisfied that the security taken on granting such stay is insufficient, he shall give notice to the judgment debtor requiring additional security; and if it be not given within three days after service of the notice, he shall make an entry of the fact on his docket, and forthwith issue execution on the judgment. But if additional security, to the satisfaction of the justice, be given within two weeks after the service of the notice, the execution, if issued in the meantime, shall be recalled, and the stay originally granted remain in force.

*Execution and Oder of Sale of Property.*

131. Subject to the provisions of law in relation to cases in which stay of execution is granted, or the judgment is removed on appeal to the circuit court, executions for the enforcement of the judgment of a justice in a civil action may be issued by the justice by whom such judgment was rendered, or his successor in office, or the justice with whom the docket on which such judgment is entered is lawfully deposited, at any time within three years from the entry of the judgment or the date of the last execution issued thereon, or if the judgment be revived, from the date of such revival.

Execution; when to be issued and by whom

132. If a stay of execution be not granted within twenty days after the judgment is rendered, or the cause be not removed on appeal to the circuit court within that time, it shall be the duty of the justice, on the expiration of the said twenty days, to issue execution, unless otherwise directed by the person entitled to receive the money collected thereon; and on the application of such person, the justice shall issue execution before the twenty days expire.

Duty of justice to issue execution after twenty days from date of judgment.

May issue sooner; when.

133. Every justice shall receive the money tendered to him on any claim in suit before him, or on any judgment on his docket, or on any docket lawfully in his possession, on which no execution has been issued, or, if issued, has been returned unsatisfied, and no other execution has been issued thereon since such return, and pay the same on demand to the person entitled thereto. *Provided*, No money shall be received by a justice until he has executed a bond according to law.

Justice to receive money tendered him, etc. and pay the same to party entitled

To give bond before receiving money.

134. If a justice fail to pay any money which comes to his hands by virtue of his office, when demanded by the person entitled thereto, such justice and the sureties in his official bond, or any one or more of them, and the personal representatives of such of them as are dead, shall be liable to the person entitled thereto for such money, with legal interest thereon from the time of such demand, and ten per cent. on the principal, in addition, as damages.

Remedy against him and his sureties for failure.

135. The execution must be filled up before it is delivered to be executed; otherwise, it shall be void. It must describe the judgment on which it is issued by stating the party in whose favor, and the party against whom, the justice by whom, and the county and district in which such judgment was rendered. It must also state the principal sum to be collected, the time the interest commenced, the amount of costs to be collected, and the credits, if any, to which it is subject by reason of payments made since the judgment was rendered. It shall be returnable sixty days from its date, be signed by the justice, and command the

Execution; void if blanks left in. What must be stated in.

When returnable, how signed, etc.

Not affected by defects, etc., therein, but may be amended, etc.

person to whom it is directed to collect the amount due out of the personal property of the judgment debtor, and pay the money made to the party entitled thereto, and make return thereof, showing how it has been executed. If there be any defect, error or omission in an execution, or any other order issued by a justice for the sale of property, they shall not vitiate anything done under it which would have been proper if the execution or order had been correctly issued, but the justice may, at any time, amend the same according to the truth.

How execution or order of sale may be directed and executed.

136. The execution or order of sale may be directed and executed as provided in the seventeenth section of this chapter. When, for any cause, it is unfit for an execution or order of sale to be directed to a constable, it may be directed to the sheriff, deputy sheriff, or serjeant of a town or village, and the serjeant of a town or village to whom any execution or order of sale issued by a justice is directed, may, like the others, execute the same within the county, or on any creek or river adjoining the same.

When may be directed to sheriff.

When new execution may be issued.

137. If an execution be returned unsatisfied, or no return be made thereof, new executions may successively be issued after the return day of the former, to be endorsed respectively, "second execution," "third execution," and so forth, as the case may be.

What to be endorsed thereon

Duty of justice where judgment is rendered against principal and surety, etc

138. When a joint judgment is rendered against a principal debtor and his surety, if such suretyship appear to the satisfaction of the justice by any evidence at the trial or paper filed in the cause, or by admission of the parties, he shall note the fact on his docket, and in such case a memorandum thereof shall be endorsed on the execution, and the personal property of the principal debtor, subject to execution, within the jurisdiction of the officer, shall be first sold, unless the surety direct otherwise.

Officer must endorse on execution when received. Penalty for failure.

139. The officer to whom an execution issued by a justice is delivered to be executed, shall endorse thereon the day and hour when it came to his hands. If he fail to do so, the creditor may recover against him and his sureties, or any one or more of them, and the personal representatives of such of them as are dead, before the justice by whom the execution was issued, or his successor, a sum not exceeding fifteen per cent. on the whole amount, including interest and costs, due on the execution. From the time the execution came to the hands of such officer to be executed, it shall operate as a lien on the personal property of the judgment debtor, liable to be seized under it; which lien, however, shall be subject to any prior lien acquired on such property by the issue or levy thereon of any other process. When there are sev-

Lien of execution.

How executions to be executed.

eral executions in the hands of the same officer against the same judgment debtor, they shall be executed in the order

in which they were received; or if received together, all shall share alike, without preference to one over another.

140. The officer, after taking into his custody the personal property levied on by virtue of the execution, shall endorse on the execution the time of the levy, and endorse thereon or annex thereto a list of the property. He shall then immediately post notice at three public places in the district in which such property, or the greater part in value thereof was found, (and if any mules, work-oxen, or horses, are to be sold, on the front door of the court house of the county) of the time and place at which it will be sold. Such notice shall describe the property, or there shall be a list thereof annexed to the same, and the notice shall be posted ten days at least, (or if any mules, work-oxen, or horses are to be sold, twenty days at least) before the time of sale. But when property levied on is of a perishable nature or expensive to keep, the justice may order sale to be made thereof, as the case may require. The execution may be levied as well on money and bank notes as on other goods and chattels. If the levy be on lawful money, the same shall be accounted for at its par value as so much money made under the execution. If it be upon notes, and the creditor will not take them at their nominal value, they shall be sold and accounted for as any other property taken under execution.

Time of levy to be endorsed on execution.

Notice of sale; posting of.

Contents of such notice.

When property is perishable, etc., justice may order sale, etc.

Execution may be levied on money.

If levied on notes; what then.

*Sales Under Execution, &c.*

141. All sales on execution and orders of sale, by virtue of this chapter, except as hereinafter provided, shall be at public auction in the district in which the property, or the greater part thereof in value, was levied on, between the hours of ten in the forenoon and four in the afternoon on the day appointed for the sale, and at the house or on the premises where the property was taken, or at one of the most public places in the district. Mules, work-oxen and horses shall be sold at the court-house of the county, on a circuit or county court day, between the hours herein stated, except where the parties shall, in writing, authorize the officer to dispense with this requirement, in which case the sale shall be made in the same manner as other sales on execution and orders of sale, as herein provided. At the time and place appointed for the sale, the officer or person shall sell to the highest bidder for cash, except as hereinafter provided, the property (except lawful money and such bank notes as the creditor will take at their nominal value), or so much thereof as may be necessary; but if there be not time to complete the sale on the day appointed, it may be adjourned from day to day until completed. Before any such sale shall be made, if the judgment debtor, his agent or attorney, or, in their absence, his wife, so desire, the property to be sold

Sales, etc., to be at public auction.

When and where.

Mules, horses, etc., when and where sold.

Sales to be to highest bidder and for cash.

Sale to be adjourned from day to day.

Appraisement of property to be sold; when and how.

If appraisers cannot agree; what then.

Return of appraisement.

Property to bring two-thirds of its appraised value, if not, what then.

When cash bid to be received.

Notes taken at sale to whom returned.

Endorsement thereon by justice; effect of.

When executions may issue thereon.

Re-sale of property if purchaser fail to comply with terms of sale.

When purchaser liable for difference between first and second sale.

Justice and constable not to purchase at sale.

Penalty for doing so.

Expenses of executing process and keeping property; how paid to officer.

shall be appraised by two disinterested householders of the district, one to be selected by the judgment debtor, his agent, attorney, or wife, as aforesaid, and the other by the judgment creditor, his agent or attorney, or in their absence or failure to act, by the officer who made the levy, who, after being duly sworn, for the purpose, shall appraise, at its fair cash value, each item of property to be sold, and reduce their appraisement to writing and sign the same. If they disagree as to the value of any such item, the officer making the levy shall, on his official oath, act as umpire in the case; and his decision, and that of one of said appraisers, shall determine the value of such item. Said appraisement shall be returned by such officer, with the execution. Upon any such property being offered for sale for cash, if no bid be made therefor amounting to two-thirds of its appraised value, no sale thereof shall then be made for cash, if such appraised value exceed five dollars, but the same shall then be offered for sale, one-half on a credit of four months, and the residue of eight months, the purchaser giving his notes, with good security, bearing interest from date, for the purchase money. If, when so offered, a greater sum be bid for such property than was offered in cash, the sale shall be made on such credit; otherwise the cash bid shall be received. The notes, if any, taken on such sale shall, if not paid when due, be returned to the justice, who shall endorse thereon the date of the return, and from that day they shall have the force of judgments, and executions thereon may be issued by the justice, on five days' notice, to the persons signing said notes, or their personal representatives.

142. If at any such sale a purchaser do not comply with the terms thereof, the officer may re-sell the property, either forthwith or upon such notice as he deems proper, or return that the property was not sold for want of bidders. If on the re-sale the property be sold for less than it sold for before, the first purchaser shall be liable for the difference to the creditor, so far as it is necessary to satisfy him, and to the debtor for the balance.

143. Neither the justice who issued, nor the officer holding the execution or any order of sale, shall purchase, directly or indirectly, any property sold on such execution or order. If either of them shall do so, he shall be fined not less than five nor more than one hundred dollars.

144. The officer shall be allowed by the justice the reasonable expenses of executing the process and keeping the property, out of the proceeds of sale, or the same may be taxed and collected as other costs in the action.

#### *Officer's Return.*

145. The officer, to whom an execution or order of sale

is delivered to be executed, shall make true return thereon at the proper time and place, stating in such return the time and manner of executing the writ or order, or why it has not been executed; and shall subscribe his name to such return. He shall pay the money made, except his own fees and costs, to the party entitled thereto. When any property is sold under the execution or order, he shall return with the writ or order a true account of such sale, specifying the several articles sold and the prices thereof. If there be any property remaining in his hands unsold, subject to the execution or order, he shall annex to his return a true list of such property, specifying the several articles. If he fail herein, he shall be fined not exceeding ten dollars; and, moreover, he and his sureties, or any one or more of them, and the personal representatives of such as are dead, shall be liable for such failure to the person entitled to receive the money mentioned in the execution or order. A judgment for such fine shall not be a bar to further proceedings, if the failure be continued; but there shall be a further fine, from time to time, of not exceeding ten dollars for every month subsequent to such judgment that the failure shall continue, until it appear that the return cannot be made, or that the amount due upon the execution or order has been paid to the creditor. *Provided*, That not more than ten dollars' fine shall be recovered in any one prosecution.

Officer must make return of execution or order of sale, etc.

To pay money, to party entitled thereto.

Account of sales to be returned; what to contain.

List of property unsold.

Fine for failure.

Liability to person entitled to receive the money.

Judgment for fines no bar to future fines, etc.

Fines not to exceed ten dollars in one prosecution.

146. If an officer make such return upon an execution or order of sale issued by a justice as entitles any person to recover money from such officer, and fail to pay the same as he ought, the justice having jurisdiction may, on motion or action on behalf of such person, give judgment against such officer and his securities, or any one or more of them, or the personal representatives of such of them as are dead, for so much principle and interest as is due at the time the judgment is rendered, with interest thereon at the rate of not less than six nor more than fifteen per centum per annum, as the justice may deem proper, from that time until payment.

Remedy of party injured against officer for failing to pay money, etc.

147. A copy from the entry in the justice's docket, of the date of any execution or order of sale issued by him, and to whom delivered, shall be evidence in any proceeding against the officer to whom it is entered as delivered, for failure to make due return thereof, or failing to pay over money received thereon. If a justice, upon being applied to for a copy of any entry, refuse it, or upon being summoned to produce the docket in which such entry is or ought to have been made, fail to produce such entry, he shall forfeit twenty dollars to the person making such application, or on whose behalf he is summoned.

Copy of entry in justice's docket; evidence against officer.

Penalty on justice failing to produce docket or furnish entry.

148. If an officer collect money mentioned in an execution or order of sale issued by a justice, after the return day

Officers and sureties liable for money col-



lected after return day of execution, etc.

Also, for money received on account of any claim, etc.

His receipt *prima facie* evidence of collection.

Duty of justice where property remains in hands of officer unsold.

When officer levying execution, etc., may take security for his own indemnity.

Claim of property levied on by third persons; proceedings in such cases.

thereof, he and his sureties shall be liable for the money so collected, in like manner as if the collection had been made before the return day. And if a constable receive money on account of any claim entrusted to him to sue upon or collect, he and his sureties shall be liable for the money so received, as for money collected under execution; and after six months from the date of any receipt for such claim, signed in his official character, such receipt shall be *prima facie* evidence of the receipt of the money.

149. When an execution or order of sale is returned unsatisfied in whole or in part, and there is property in the hands of the officer remaining unsold for the want of bidders, or other cause, it shall be the duty of the justice, unless otherwise directed by the person entitled to receive the money remaining uncollected, forthwith to issue his order commanding such officer to sell the said property and pay over the proceeds thereof to the said party entitled thereto; which sale shall be subject to the same regulations as sales on execution.

150. Any officer having levied on property of which he permits the party against whom the execution or order of sale issued, or any other person, to retain or have possession, may take such security for his own indemnity as he shall require, that such property shall be delivered at the time and place appointed for the sale thereof.

151. When an officer, by virtue of an execution, order of sale, or order of attachment, has levied on or attached, or is about to sell, property claimed by any person other than the party against whom the execution or order is issued, if such claimant or another for him, shall file with the justice by whom the execution or order was issued, or his successor, his petition stating such a claim to, or interest in the property levied on, or about to be sold, as entitles him to have the same released from such levy, or to prevent the sale thereof (as the case may be), and praying that an issue be made upon said petition by the justice to try the claimant's right or interest in said property; and shall at the same time deliver to the justice a bond with good security, to be approved by the justice, in a penalty at least double the value of the said property, with condition that if the claimant, on the trial of said issue, shall fail to prove that at the time of such levy, or at the time said property was about to be sold, as aforesaid, he had such claim thereto, or interest therein, as is hereinbefore stated, he will pay to the plaintiff in such execution, or order, the value of the property, or so much thereof as will be necessary to pay the plaintiff's claim and the costs of the trial of such issue, the justice shall issue his order, directed to the officer having such execution, order of sale, or attachment, commanding him to deliver up the property to the said claimant; and such officer shall obey the same.

The justice shall note in his docket the filing of such petition and bond, and the issue on said petition shall be made up by the answer of the plaintiff in the execution or order, denying the allegations of said petition, and the affirmative of such issue shall be with the said claimant. The proceedings on such issue shall be the same in all respects as in other cases in a justice's court. If the judgment of the justice, or the verdict of a jury, on such issue, be for the plaintiff in such execution or order, the justice, or jury (if the issue be tried by a jury), shall ascertain the value of the property so claimed, and the justice shall thereupon render judgment for the plaintiff against the claimant and his sureties in such bond for the sum so ascertained, or for so much thereof as may be necessary to pay the plaintiff's claim, and the costs incurred by him in the trial of such issue. But if such issue be found for the claimant, he shall recover his costs against such plaintiff.

152. Or the claimant in such case, without giving the <sup>ibid.</sup> bond mentioned in the preceding section, may apply to any justice of the district in which the levy or attachment was made, for an order to notify both the creditor and debtor to appear and show cause why the property should not be discharged from the levy, order of sale, or attachment. Such order shall be returnable in five days or less from the date thereof, and be served and returned according to the command thereof; and if it be returned served, the justice, on the return day thereof, or at such reasonable time thereafter as he may appoint for the purpose, shall hear the parties, or such of them as attend, and dismiss the claim, or order the officer to deliver the property to the claimant, as the right shall appear; and the party prevailing shall recover his costs. The justice may also make any order necessary to prevent the property from being sold before the right thereto is determined, as aforesaid. Justice may stay sale till right of property is determined.

153. Any party considering himself aggrieved by the decision of the justice, or verdict of a jury, under either of the two preceding sections, may appeal therefrom to the circuit court in like manner as from a judgment. Appeal from decision in such cases.

154. The word "officer" is intended to include any person specially deputed by the justice, pursuant to the thirtieth section, unless such construction be inconsistent with the context; and the justice and his sureties shall be deemed the sureties of such officer, according to the thirty-first section. Word "officer;" definition of.

#### *Imprisonment of Fraudulent Debtor.*

155. When judgment is rendered against a defendant, who is in custody under an order of arrest issued pursuant to the fortieth section, the justice, if, upon the whole Imprisonment of fraudulent debtor; when and how.

Execution may issue with order of imprisonment.

dence produced, he believe the defendant to have been guilty of fraud in any of the particulars mentioned in that section, may issue an order to the officer having him in custody to deliver him to the jailor of the county, to be confined in jail until lawfully discharged, which order shall be executed according to the command thereof. With such order an execution may also be issued.

When and how judgment debtor may be arrested and imprisoned for fraud committed after judgment, etc.

156. If at any time after a judgment rendered by a justice, there is filed with such justice, or his successor, the affidavit or affidavits of one or more credible persons, stating the amount yet remaining unpaid on the said judgment, and showing to the satisfaction of the justice that the person against whom such judgment was rendered has, since the date thereof, been guilty of fraud in any of the particulars mentioned in the fortieth section, the justice may thereupon issue an order for the arrest of such person, and to bring him before said justice for examination as to such alleged fraud. If, after hearing all the evidence adduced by the parties upon such examination, the justice be satisfied that the judgment debtor has been guilty of fraud in any of the particulars so alleged against him, he may order him to be imprisoned, as provided in the preceding section.

Execution may be issued with order in such case, or order may be issued though execution outstanding. Order of arrest not to be executed; when Order of arrest; how dated, signed, directed and executed. Order and execution directed to same officer. What must be stated in order.

157. An execution may be issued with the order mentioned in the last section, or the order may be issued while an execution is outstanding; and if sufficient property be found to satisfy the execution, the order shall not be executed, or if executed, the person so in custody shall be discharged. The order shall be dated the day it is issued, be signed by the justice, directed like the summons, and may be executed out of the county where the judgment was rendered, if the defendant escape or be out of such county; and if an execution be issued with it, or be outstanding, both shall be directed to the same officer for execution. It shall state the parties to the judgment, debt, interests and costs, and the credits to which the judgment is subject, as required in an execution; and command the officer to arrest the party against whom the judgment was rendered, and deliver him to the jailor of the county, to be confined in jail until lawfully discharged. It shall be returnable whenever executed, or, if not previously executed, in sixty days from its date; and shall be executed according to the command thereof.

When and how executed and returned.

Bond to be filed before order of arrest issued.

158. But the order mentioned in the one hundred and fifty-sixth section shall not be issued until a bond, signed by one or more sufficient parties, to be approved by the justice, in a penalty at least double the sum claimed in the affidavit, but in no case less than one hundred dollars, is filed with the justice, with condition to pay the person to be arrested all damages he sustain by such arrest and

imprisonment, if it should thereafter appear that the order was issued without sufficient cause therefor.

159. A copy of the order, either in the case mentioned in the one hundred and fifty-fifth or one hundred and fifty-sixth section, signed by the justice, or the officer having the prisoner in custody, shall be sufficient to require the jailor to receive and keep such prisoner in jail until discharged according to law.

What sufficient authority for jailor to receive and imprison person arrested.

160. The prisoner committed as aforesaid, unless sooner discharged, as provided for in the forty-first section of this chapter or otherwise, shall be kept in jail for ten days, and one day in addition for every ten dollars over twenty dollars due on the said judgment at the commencement of his imprisonment, including interest and costs; and at the expiration of the said time shall be discharged by the jailor, without further order.

Prisoner, how long to be detained in jail.

When jailor to discharge him.

161. He shall be discharged by order of the justice at any time, upon his paying to the said justice, or to the party entitled thereto, the whole amount due on the judgment, together with the costs of his arrest and imprisonment; or surrendering property sufficient to satisfy the same, to such officer as the justice may direct to receive and sell the said property; or by filing with the justice a bond, with good security, to be approved by him, to pay the judgment and costs aforesaid, within sixty days. If such bond be not paid when due, it shall have the force and effect of a judgment from that date against the obligors therein, and execution may be awarded thereon by the justice, upon five days' notice to the obligors, or their personal representatives. If property be so surrendered, it shall be sold and applied as if levied on under an execution.

When and how he may be discharged by order of the justice.

Force and effect of such bond if not paid when due.

Sale of property surrendered.

162. The party at whose instance any person is committed as aforesaid, shall be liable to the jailor for his fees and the support of the prisoner, and the jailor may at any time, after reasonable notice to such party, discharge the prisoner if such fees and support be not paid.

Who liable to jailor for his fees, etc., in such cases. If fees, etc., not paid, jailor may discharge prisoner, after notice.

#### *Appeals.*

163. In all cases an appeal shall lie, under the regulations herein prescribed, from the judgment of a justice to the circuit court of the county, when the amount in controversy on the trial before the justice exceeds fifteen dollars, exclusive of interest and costs, or the case involves the freedom of a person, the validity of a law, or of an ordinance of any corporation, or the right of a corporation to levy tolls or taxes.

Appeals from judgments of justices; in what cases lie.

164. The appeal shall not be granted by the justice, unless within ten days after the judgment is rendered or re-

How and when appeal granted by justice, etc.

**Bond.**

viewed, bond, with good security, to be approved by the justice in a penalty double the amount of the judgment, is filed with him, with condition to the effect that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal, or if he does not wish to stay the execution on such judgment, with condition to pay the costs on such appeal if the judgment appealed from be affirmed.

**When bond may be dispensed with and appeal granted.**

165. But if the appeal be applied for on behalf of a district, town, village, county court of a county, or board of education, in their corporate capacity, or fiduciary, it shall be granted without such bond.

**One of two or more plaintiffs, etc., may appeal, etc.**

166. When there are two or more plaintiffs or defendants, any one or more of them may appeal, without joining therein the others on the same side.

**After appeal granted, proceedings stayed, etc.**

167. After the appeal is granted, if the bond first mentioned in section one hundred and sixty-four has been given, or if the appeal be allowed under section one hundred and sixty-five, all further proceedings on the judgment of the justice shall cease, and if any execution, order of arrest or other process or order be outstanding, it shall be recalled by the justice, and if the appellant be in custody he shall be discharged.

**Outstanding executions, etc., to be recalled, etc., and party discharged.**

**Within what time justice to return case to clerk of court; what to be returned.**

168. The justice shall, within twenty days from the day on which the appeal is perfected, make out and certify a complete transcript from his docket of all the proceedings before him in the action, and deliver or transmit the same, together with the said bond, the pleadings, the depositions, and all original papers in the cause, to the clerk of the circuit court of the county. If the justice omit or refuse to do so, he shall be fined not less than five nor more than one hundred dollars; and, moreover, shall, with the sureties on his official bond, be liable to the party aggrieved for any loss or damage he may sustain thereby.

**Fine on justice for failure to return.**

**His liability, etc., to party for damages, etc.**

**Clerk on receiving transcript, etc., to file same and docket appeal. Appeal tried upon what pleadings.**

169. The clerk of the circuit court, on receiving the said transcript and papers, shall file the same and docket the appeal. The appeal may be tried upon the pleadings made up in the justice's court, or the pleadings may be amended before or during the trial of the appeal, when substantial justice will be promoted by the amendment.

**Amendment of pleadings.**

If the amendment be made during the trial of the appeal, and it be made to appear to the satisfaction of the court that a continuance of the cause is necessary in consequence of such amendment, a continuance shall be granted, and the court may in its discretion require the party making the amendment to pay the costs of the continuance. If the sum in controversy exceeds twenty dollars and either party so require, a jury of six

**If made during trial; what then.**

shall be selected and impaneled to try the cause, in like manner as other juries are selected and impaneled in said court. All lawful evidence produced in relation to the matter in difference between the parties shall be heard, whether such evidence was produced before the justice or not, and the cause shall be determined without reference to the judgment of the justice, on the principles of law and equity: *Provided*, No appeal shall be tried as aforesaid, on motion of the appellant, within less than three months from the time the transcript and papers are filed with the clerk of the circuit court, unless the appellee, his agent or attorney, be present at the time of application for the appeal, or ten days' notice of the trial has been given to the appellee, his agent or attorney.

Trial by jury; when it may be demanded. How selected, etc. All lawful evidence to be heard whether produced before justices or not. How case to be determined. Provision as to when appellant may try case.

170. If the court, in any case, be of opinion that the bond filed is insufficient, or the security doubtful, it shall order a new bond in proper form and with good security to be given within a time specified in such order, and if it be not given, or good cause shown why it was not, the same judgment which was rendered by the justice, with the costs of the appeal, shall be entered in the circuit court, without further trial, against the appellant and those who signed the bond, if it be such bond as is first named in section one hundred and sixty-four, and judgment against the appellant and sureties for the costs of the appeal if it be not such bond.

New bond; when it may be required.

If not given; what then.

171. If, upon the trial in the circuit court, the appellant do not increase the original judgment if it was in his favor, or reduce it if it was against him, more than five dollars, exclusive of interest and costs, the appellant, and those who signed the bond, shall pay the costs of the appeal, except in cases involving the title to specific personal property, or the possession of real estate, the freedom of a person, the validity of a law or an ordinance of any corporation, or the right of any corporation to levy tolls or taxes. In such cases, costs shall be awarded as the court deems right. *Provided*, That the appellant shall in no case recover costs where the original judgment against him is reduced more than five dollars, unless before such appeal is tried, he shall have tendered the appellee an amount equal to or greater than the judgment recovered by him on the trial of such appeal, together with all costs that may have accrued up to the time of such tender.

What amount appellant must increase or diminish judgment to recover costs, etc.

Excepted cases.

Proviso, if amount against appellant be reduced more than five dollars, etc., unless, etc.

172. When the judgment appealed from is against the appellant for any sum of money, and an equal or greater sum is found due by the appellant, judgment shall be rendered by the circuit court against the appellant and those who signed the bond first named in section one hundred and sixty-four, if such bond be given, for the sum due, including interest and costs up to the time the appeal was taken, with damages on the aggregate at the rate

In what cases judgment to be rendered against appellant for aggregate amt. due, etc., with ten per cent damages etc.

If appeal bond be for costs only; what thou.

of ten per cent. per annum, until payment, and the costs of the appeal; but if the appeal bond be for the payment of costs only, judgment shall be given against the appellant and those who signed the bond for the costs of the appeal.

What orders may be made by court pending appeal; cause not remanded to justice.

173. In all cases of appeal from a justice to a circuit court, the court (subject to the foregoing rules, when they are applicable), shall make any order during the progress of the cause, which the principles of law or equity may require; and shall render judgment as the right shall appear, and proceed to enforce the same as other judgments of the court are enforced, without remanding the cause again to the justice. The judgment in the circuit court, if in favor of the appellee, shall be against the appellant and those who signed the bond. Upon the trial of the appeal, the amount due, if any, from one party to the other, shall be ascertained, and judgment rendered therefor, in the manner required by the one hundred and fourteenth section of this chapter.

Judgment against appellant to be against him and sureties in bond. What amount judgment to be entered for.

Appeals from justices; when granted by court or judge.

174. Appeals from the judgments of justices may be granted after the expiration of ten days, and within ninety days after date of judgment, by the circuit court in term time, or the judge thereof in vacation, when the party seeking the appeal (except as provided in the one hundred and sixty-fifth section), shall deliver to the court or judge a proper bond with sufficient security thereto, as herein-after prescribed, and show by his own oath, or otherwise, good cause for his not having taken such appeal within the said ten days.

Bond in such cases.

When order to be made and certified to justice by court or judge granting appeal.

175. In such case, if the appeal be granted, and the bond given by the appellant be with condition that he will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal, the court or judge shall make and certify to the justice an order directing him to cease all further proceedings in the cause, and recall all executions and orders that may be outstanding for the enforcement of the judgment, and transmit, without delay, to the clerk of the said court a complete transcript from his docket of the proceedings in the action, together with all the original papers relating thereto, but if such bond be not given, the court or judge shall omit from such certificate so much thereof as directs the justice to recall all executions and orders outstanding for the enforcement of the judgment. Upon the receipt of such transcript and papers by the clerk, the cause shall be proceeded with in the circuit court, as in other cases of appeals from the judgments of justices. Appeals from the judgments of justices of the peace rendered since the first day of October, one thousand eight hundred and eighty, where the same have not already been taken, shall be allowed by the justice having possession of the docket of the justice who rendered such judgment, in like manner and with like

Duty of justice on receiving the order.

Duty of clerk on receipt of papers in such appeal.

Appeals from justices in cases since 1880; how allowed, etc.

effect, as if said appeal had been applied for in due time to a justice who had the power to grant the same. And if any such justice fail or refuse to grant such appeal, when applied for, the same may be granted by the circuit court of the county, or the judge thereof, in vacation.

If justice fail or refuse to grant such appeal; what then.

*Docket.*

176. Every justice shall keep a book denominated a "docket," to be furnished at the expense of the county, and used exclusively for entering therein his judicial proceedings.

Docket of justice; book for, how furnished.

177. He shall number the cases progressively on his docket, and number the papers of each case to correspond. He shall keep all the papers of each case together in one package, and file them in the order they are numbered.

How cases numbered in docket, etc. How papers kept, etc.

178. He shall enter in his docket the title of every action commenced before him, setting forth the names of the parties, if known, and showing which are plaintiffs and which are defendants, and stating the time the action was commenced, and the amount of money or damages, or the specific property, which the plaintiff demands.

Cases, how entered in docket, and what to be stated therein.

179. Underneath the title of the action he shall enter, at the times they occur, the following particulars, commencing the proceedings of every day with the proper date: The date of the summons, the time it is returnable, and the name of the person to whom it was delivered to be served. The same particulars must be stated in relation to any order of arrest or attachment which may be issued in the action; and if an order of arrest or attachment be issued, it shall be stated on whose affidavit it was founded. The return made on the process shall be briefly noted. The name of the agent, attorney or guardian, if any, appointed on behalf of any party shall be stated. The filing by either party of his complaint or answer, if made orally, with a brief notice of the contents thereof. Every continuance, showing at whose instance it is made, and to what time, and at whose costs. If made to a different place, it shall be so stated. The bonds filed in the action by either party shall be noted, with the names of the parties who signed the same. The docket shall show which of the parties is present at the time. When a jury is demanded, by which party such demand was made, the amount of money deposited, and the time appointed for the trial by jury. The verdict of the jury shall be set forth in full; and if the jury do not agree and are discharged, the fact shall be stated. The judgment of the justice shall be stated, with the items of the costs included therein. The execution and orders to sell issued, to whom delivered, to be executed, and the returns made on any such process shall be shown by the entries on

What particulars to be entered underneath title of action.



the docket; also, every sum of money received by the justice in the cause showing when and by whom paid. If an appeal be taken, by which party, the bond filed by him, by whom signed and when filed, and the notice of appeal, when filed. The bond filed for stay of execution, by whom signed, and when filed, and the stay granted. The satisfaction of the judgment, and how and when satisfied. Any other proceedings in the action which the justice is by law directed to enter in his docket, or may think it necessary or proper to enter.

Form of entry immaterial if truth be stated.

180. So far as the entries in the docket are concerned, the form shall be regarded as immaterial, if the truth be stated so as to be intelligible.

Index to judgments to be kept; and how.

181. Every justice shall keep an alphabetical index to all judgments entered in his docket. In such index shall be inserted the names of the parties to each judgment, with a reference to the page where the judgment is entered.

Judgments of justices; how proved, etc.

182. Whenever it is necessary to prove a judgment or other proceeding had before a justice, or any process issued by him, or the return thereof, or any order made by him in a suit, the docket in which it is entered, or a transcript thereof, certified by him or his successor in office, or the person lawfully having the custody of such docket, shall be evidence of the same, but shall not be conclusive, if errors or omissions be shown.

Duty of justice at the expiration of his office as to his docket, papers, etc.

183. Every justice, upon the expiration of his term of office, shall deposit with his successor his official docket, as well as those of his predecessors, which may be in his custody, together with all papers relating to his judicial proceedings, in their proper files and order, and all statutes, books and papers received by him in his official capacity, to be kept by such successor as public records and property.

If office of justice become vacant by reason of death, etc., to whom docket, papers, etc., delivered.

184. If the office of a justice become vacant by death, removal from the district, or otherwise, the dockets, papers, statutes and books in the possession of such justice, by virtue of his office, shall be delivered to the other justice, if there be one, of the district; otherwise, to the justice of an adjoining district, to remain in his custody until such vacancy is filled, and then to be delivered to the person elected or appointed and qualified to fill such vacancy.

What to be done with dockets, papers, etc., when justice absents himself from district, etc.

185. Any justice absenting himself from his district for a longer period than sixty days, shall deposit the dockets, papers, statutes and books, which came to his hands by virtue of his office, with the other justice, if there be one, of the same district; otherwise, with the justice of an adjoining district. The county court of the county may, however, at its option, declare the justice so absenting himself to have thereby vacated his office.

Court may declare office vacant.

186. Any person receiving, as aforesaid, the dockets, papers, books, and statutes which were in the possession of any justice by virtue of his office shall, if requested, give a receipt therefor to the person delivering the same.

Person receiving such dockets, papers, etc., to receipt for same.

187. A justice with whom the docket and papers of another are lawfully deposited, during vacancy or absence, or as the successor of such other justice, is hereby authorized, while such docket and papers remain lawfully in his custody, to issue execution or other process in the suits entered thereon, give and certify transcripts thereof, and do all such other acts in relation thereto as he may do in relation to his own docket and papers. But executions and process so issued shall be returned to the justice who may have the legal custody of said docket, on the return day thereof.

Justice in whose custody such docket, etc., is left may issue executions thereon, etc.

To what justice to be returned.

188. When two justices are elected or appointed in any district in place of two others, the county court of the county shall declare as to each of those going out of office, which of the two elected or appointed shall be deemed his successor.

County court to declare who is the successor of outgoing justices in certain cases.

189. The official dockets and papers of the justices acting within any county of this state, under the laws of the state of Virginia, shall be delivered by any person, other than a justice now in office, to some justice of the proper district or county; and the justice to whom any such docket and papers are delivered as aforesaid may give and certify transcripts thereof, issue executions and other process in the suits entered thereon, and do all such other acts in relation thereto, as he may lawfully do in relation to his own official docket and papers.

Official dockets and papers of justices acting under the laws of Virginia, how disposed of.

Power of justice receiving such dockets to issue executions, etc., thereon.

*Certain Special Proceedings—I. Contempts.*

190. A justice may punish for contempt a person guilty of any of the following acts, and in no other case:

Contempts; what amounts to, and cases in which justice may punish for, enumerated

*First*—Contemptuous or insolent behavior towards such justice while engaged in the trial of a case or in any other judicial proceeding.

*Second*—Any breach of the peace, wilful disturbance, or indecent conduct in the presence of such justice while so engaged, or so near as to obstruct or interrupt his proceedings.

*Third*—Violence or threats of violence to such justice, or any officer, juror, witness, or party going to, attending, or returning from any judicial proceeding before such justice, in respect to anything done or to be done in the course of such proceedings.

*Fourth*—Misbehavior of any officer in his official character in respect to any action or judicial proceeding had or pending before such justice, or any process, judgment, order, or notice therein.

*Fifth*—Disobedience or resistance by an officer, juror, witness, party, or other person to any lawful process, judgment, or order of such justice.

How person  
punished for  
contempt.

191. An order of arrest may be issued by the justice, on which the person so guilty may be taken and brought before him, or such person may be taken in custody by any officer or person present, upon the oral order of the justice, and held to answer for the contempt. An opportunity must be given him to be heard in defense or explanation of his conduct; and the justice may thereupon discharge him, or adjudge him guilty of the contempt, and punish him by fine or imprisonment or both. The fine shall not exceed ten dollars, or the imprisonment five days.

Ibid.

192. The conviction, specifying the particular circumstances of the offense and judgment thereon, must be entered by the justice in his docket. A warrant of commitment for the term of imprisonment adjudged may be issued by the justice, commanding an officer to take the offender to the jail of the county, and the jailor to imprison him therein for the said term. The judgment may include, in addition to the fine, all costs in the case, including costs of arresting and keeping in prison the offender.

## II. *Attachment of Defendant's Property and Claims.*

When, how and  
upon what  
affidavits an  
attachment  
may be issued.

193. If the plaintiff, at the commencement of his action or at any time during its pendency, and before judgment, show to the satisfaction of the justice by his own affidavit, or the affidavit or affidavits of one or more credible persons made before any person authorized to administer oaths, the nature of his claim, that it is just, the amount thereof as near as may be, and that the defendant, or any of the defendants to the action, has committed or is about to commit fraud in one or more of the particulars mentioned in the fortieth section, or has absconded, left his residence, or concealed himself with intent to hinder or defraud any creditor, or avoid service of process, or that the defendant or any of the defendants is a foreign corporation or a non-resident of the state, such justice, having jurisdiction of the action, may, subject to the provision contained in the following section, issue an order of attachment against the personal property and the claims of such defendant, to be directed and executed as prescribed in the seventeenth section of this chapter, and returnable when executed, but if not previously executed, in sixty days from its date.

Order of  
attachment;  
how directed,  
executed and  
returned.

Bond in such  
cases must be  
filed before  
order issued.

194. But such order shall not be issued until a bond with good security, to be approved by the justice in a penalty double the amount of the claim sworn to, is filed with the justice, with condition that the plaintiff will pay to such defendant all damages he may sustain by reason of

the attachment should it thereafter appear that it was issued upon false suggestions, or without sufficient cause.

195. The order may be issued whether the action be founded on contract or brought to recover damages for a wrong; and except where the ground of attachment is that the defendant is a foreign corporation, or a non-resident of the state, it may be issued though the plaintiff's demand be not yet due and payable. An attachment for rent may also be issued by a justice under the provisions of section three of chapter one hundred and six of this Code, returnable before himself, or another justice, where the rent claimed, exclusive of interest, does not exceed three hundred dollars; and the same proceedings may be had on the return of said attachment as are prescribed in said section.

In what cases order of attachment may be issued.

May issue for rent; when and how.

196. The order shall command the officer who is to execute it, to attach the personal property and claims of the defendant against whom it is issued, found within the county where the order is to be executed, and not exempt by law from execution or other process, or so much of the said property and claims as will satisfy the plaintiff's demand, with interest and costs; which demand shall be stated in the order in substance as it is in the affidavit, so far as may be necessary to enable the officer to ascertain the amount thereof.

What order must command officer to do.

Demand how stated in order.

197. The officer who is to execute the order of attachment shall, within his county, deliver a copy thereof to any person designated by the plaintiff, or whom the officer believes to have in his possession or control any personal property of the defendant, or to be liable to the said defendant for any sum of money, and such delivery shall be a sufficient levy of the attachment in respect to the person to whom such copy is delivered. The officer shall note upon the order of attachment and state in his return the exact time of every such levy; and if he fail to do so, shall, with his sureties, and his and their personal representatives, be liable to the same penalty as for failing to endorse on an execution the day and hour it comes to his hands to be executed. The person to whom a copy of the order of attachment is so delivered, and who is hereinafter called garnishee, shall be liable to the plaintiff for whatever personal property of the defendant, not exempt by law from execution or other process, was in his possession or control when the levy was made, and whatever amount he was then liable for to the said defendant, whether then due and payable, or thereafter to become so, so far as may be necessary to satisfy any judgment the plaintiff may recover against such defendant, not exceeding the sum mentioned in the order of attachment, with interest and costs, including the costs of the attachment proceedings.

How order to be executed on garnishee.

Officer to note in order the time of service, etc.

Penalty for failure.

Liability of garnishee from date of such service; etc.

198. The garnishee may, at any time before judgment

Garnishee may deliver property or money before judgment, and be discharged, etc.

Officer to take and hold property; when; subject to order of justice.

Bond in case property be returned to owner.

Appraisement of property; when and how.

Return of bond with appraisement, etc., to justice.  
Bond in other cases.

Perishable property, etc., may be sold by order of justice.

Expenses for keeping and selling property; how paid.

Certain sections applicable to attachments as well as to executions.

When plaintiff may proceed to trial in case of attachment where summons is served or defendant appear.  
If summons not served, etc., second summons must issue.  
When returnable and what must be stated in such summons.

Copies thereof, when and where posted, etc.

against himself, deliver the property or money for which he is so liable, or a sufficiency thereof, to the officer before the return of the order of attachment, or to the justice, and shall thereby be discharged from liability.

199. The officer, if the plaintiff, in writing, require him so to do, shall take into his custody and care any property found subject to the attachment, or a sufficiency thereof, and hold the same subject to the order of the justice, unless a bond with good security, to be approved by the justice, in a penalty double the value of the property, be delivered to him, conditioned to the effect that the said property, or its value in money, will be forthcoming to answer any judgment in the action against the defendant. If such bond be offered, the officer shall cause an appraisement of the said property to be made and signed by two disinterested householders of the neighborhood, sworn for the purpose, unless the value be agreed upon between the plaintiff and the person theretofore in possession or control of said property. Such bond, with the agreement or appraisement, shall be returned to the justice, with the order of attachment. And in all other cases where a bond is required by this chapter to be taken in double the value of the property in question, the value thereof shall be ascertained as provided in this section.

200. When any property delivered to the officer or taken into his custody as aforesaid is of a perishable nature or expensive to keep, the justice may order sale to be made thereof as the case shall require. The officer shall be allowed by the justice the reasonable expenses of executing the attachment and keeping and selling any property under the same; which expenses shall be paid by the plaintiff and taxed in the costs.

201. The one hundred and forty-fifth, one hundred and forty-sixth, one hundred and forty-seventh, and one hundred and forty-eighth sections of this chapter shall apply to orders of attachment as well as executions.

202. When the summons in the action has been served on the defendant against whom an order of attachment is issued, or such defendant appears to answer the action, the plaintiff may proceed to trial and judgment against him as in other actions before justices. But if the summons be not served on the said defendant, and he do not appear to answer the action, a second summons shall be issued against him, returnable in not less than one, nor more than two months after its date, stating that property or claims of the said defendant have been attached to answer the plaintiff's demand; and the officer to whom such second summons is delivered to be served shall forthwith cause copies thereof to be posted at the front door of the court house and two other public places in the county

where the action is pending, and shall serve the same on the said defendant, if he be found in the county, on or before the return day thereof. If such second summons be returned served upon the said defendant, or he appear to answer the plaintiff's action, or if it be returned that the said defendant could not be found in the county, and that copies were posted as aforesaid, the plaintiff may proceed to trial and judgment against such defendant. If judgment be rendered in favor of such defendant the plaintiff shall be liable for the costs of the order of attachment, and proceedings under the same, as well as of the principal suit. The right to sue out an attachment may be contested, and when the justice is of opinion that the facts stated in the affidavit were not sufficient to authorize the issuing thereof, or that the affidavit is otherwise insufficient, judgment shall be entered that the attachment be quashed. If the defendant desire to controvert the existence of the grounds for the attachment stated in the affidavit, he may file a plea in abatement, denying the existence of such grounds, and the issue on such plea shall be tried by a jury, unless the same be waived by the parties. The affirmative of such issue shall be with the plaintiff; and if he fail to prove to the satisfaction of the jury the existence of the grounds denied by the defendant, the verdict shall be for the defendant, and judgment shall be entered that the attachment be abated. But the justice may grant new trials as in other cases. When the attachment is properly sued out, and the case heard upon its merits, if the justice be of opinion that the claim of the plaintiff is not established, final judgment shall be given for the defendant. In either case, the defendant shall recover his costs, and there shall be an order for the restoration to him of the attached effects.

When plaintiff may proceed to trial, etc.

If judgment be rendered for defendant, for what costs plaintiff liable.

Right to sue out an attachment may be contested; when and how.

New trial may be granted. Judgment to be for defendant; when.

Defendant to recover his costs, etc.

203. A judgment rendered by a justice where the summons has not been served on the defendant, and he has not appeared to answer the action, shall have the effect of a judgment only as to the property and claims of such defendant attached in the action. An execution issued on such judgment may be levied on the property subject to the attachment, but not on any other.

Effect of judgment where summons not served on defendant, etc. On what property execution issued, may be levied.

204. After the plaintiff has obtained judgment, he may proceed by execution as aforesaid, or the justice, on his application, shall issue an order commanding the officer having in his custody any property subject to the attachment, or any officer to whom an execution might be directed by the said justice, to sell the property so subject, or so much thereof as will be sufficient, as provided for in section one hundred and forty-one of this chapter. But if the attachment and judgment be for a debt not yet due, the property shall be sold on a credit corresponding to the time it will become due, if such

After judgment, plaintiff may proceed by execution, etc., or justice may make order of sale.

If attachment and judgment be for debt not yet due; what then.

time be longer than that mentioned in said section, and the notes of the purchaser, with good security, bearing interest from date, shall be taken on the purchase money. Such sale shall be made, the order of sale returned, and the proceeds accounted for, paid, and applied as if the property had been taken under an execution issued on the said judgment; and the officer and his sureties, his and their personal representatives, shall be liable in respect thereto in the same manner and to the same extent. If any property, or its value in money, be not forthcoming to answer the said judgment pursuant to the bond mentioned in the one hundred and ninety-ninth section, the plaintiff may bring an action in his own name on the bond against any one or more of the parties who signed the same, and recover therein, besides costs, so much as will be necessary to satisfy the said judgment, not exceeding, however, the value of the property detained. If the property mentioned in the bond, or any part of it, be forthcoming, the same or so much of it as will be sufficient, shall be sold under the order of the justice and applied as aforesaid. If the value in money be paid pursuant to the bond, such payment shall be to the justice, and be applied by him to the satisfaction of the said judgment so far as it is necessary, and the balance paid to the said defendant, on demand.

How sales in such cases made and returned, etc.

Liability of officer.

When and how action may be brought on bond of defendant, etc.

What may be recovered.

Property forthcoming to be sold, etc.

If value in money be paid; how applied, etc.

How garnishee may be compelled to appear and answer, etc.

205. On motion of the plaintiff, after he has obtained judgment as aforesaid against the defendant, the justice shall make an order requiring any garnishee, at a time and place specified in such order, to appear and answer, under oath, respecting the property and money with which he is chargeable; and may also subpoena witnesses to testify concerning the same.

If garnishee appear; how examined, etc.

Proceeding if he fail to appear.

206. If the garnishee appear and answer, he shall be examined, under oath, respecting whatever he is liable for, as provided by the one hundred and ninety-seventh section, and the justice shall also hear any proper evidence concerning the same. If he fail to appear at the time and place specified in the said order, and it be shown that a copy of such order was delivered to him ten days at least before that time, the justice may either proceed to hear proof respecting the property and money with which the garnishee is chargeable, or on motion of the plaintiff, shall appoint another time, and cause not less than ten days' notice to be given to the garnishee, that if he do not appear and answer at the time so last appointed, it will be taken as an admission that he is liable for money sufficient to satisfy the judgment against the defendant, with interest and costs, and the cost of the attachment. If he fail to appear after such second notice, or if at any time he appear and refuse to answer any proper question, and in either case no sufficient cause be shown therefor, the justice may proceed as if the garnishee had admitted suffi-

When judgment may be given against him by default.

cient money to be in his hands as aforesaid. *Provided*, That if the garnishee reside in another county, he may always answer in writing, under oath, and such answer, if sufficient, shall be equivalent to his personal appearance and examination; or, if insufficient, he may be required, being first served with a copy thereof, to answer, under oath, proper interrogatories in writing, approved and allowed by the justice; and his failure to file with the justice his answer to such interrogatories within two weeks after he has been served with a copy thereof, shall, unless good cause be shown for such failure, be taken as an admission by the garnishee that he has sufficient money in his hands as aforesaid.

When garnishee may answer in writing; effect thereof, etc.

207. If it appear by the admission or examination of the garnishee, or otherwise, that he is liable for any money or property, whether sufficient to satisfy the judgment or not, the justice, if it be a sum of money, shall order him to pay the same, or so much thereof as will be sufficient, to the plaintiff, to be applied first to the costs of the attachment, and the balance to the discharge of the judgment against the defendant; but if it be shown that such sum of money is not yet due and payable, the order shall be for the payment thereof at the time (to be stated in such order) when it will be due and payable. If it be property, and not money, for which the garnishee is liable, the justice shall ascertain the value thereof, and order the garnishee to pay the said value, or so much thereof as will be sufficient, to the plaintiff, to be applied as aforesaid, on a certain day to be specified in the order, unless the garnishee, on or before such day, deliver the said property, or a sufficiency thereof, to the officer designated by the justice to receive it. If property be so delivered, it shall be sold as if taken on execution under an order of sale to be made by the justice, and the proceeds applied as aforesaid.

Judgment in case garnishee is liable, etc.

In case when not due.

If garnishee liable for property and not money, what proceedings to be had, etc.

208. Any order made by a justice pursuant to the preceding section, directing the payment of money by a garnishee, may be enforced by execution against the garnishee in the name of the plaintiff, when such money is or becomes due and payable; and an appeal shall lie therefrom to the circuit court in like cases and manner as from other judgments of justices.

Order for garnishee to pay money, how enforced.

Appeal.

209. If the garnishee fairly disclose whatever he is liable for, and comply with and perform the orders of the justice, he shall be allowed his reasonable costs and expenses out of the money or property surrendered; and no prior lien on any money or property shall be impaired by attachment.

When garnishee allowed costs, etc.

No prior lien, etc., to be impaired by attachment.

210. When there are several orders of attachment in the hands of the same officer, against the property and claims of the same person, they shall be levied in the order

Officer to levy attachments in the order he receives them.



How priority of lien determined in certain cases.

they were received. When several attachments, issued by different justices, are levied on the same property or claims, or upon the same garnishee, and proceeding be taken to determine which of them has priority of lien, neither of the justices issuing any one or more of such attachments shall have jurisdiction to determine such questions; but any other justice of the county may, on the motion of any one or more of the plaintiffs, try and determine the priorities of the several attachments, and the proceeds shall be applied accordingly. But notice of such motion shall be served on the other attaching creditors, their agents or attorneys, at least five days before the trial thereof; and if such proceedings be commenced before more than one justice, the justice before whom said proceedings shall be first commenced shall alone have jurisdiction in the case, unless he be disqualified, as provided in section fourteen of this chapter. If any property which has been attached be claimed by any person other than the defendant against whom the order of attachment was issued, proceedings may be had according to the one hundred and fifty-first and one hundred and fifty-second sections.

How conflicting claims to attached property to be decided.

### III. *Unlawful Detainer of Real Estate.*

In what cases proceedings may be had before justice to recover possession of real estate; by whom and when.

211. If any forcible or unlawful entry be made upon land, or if, when the entry was lawful, the tenant detain possession of land after his right has expired, without the consent of him who is entitled to the possession, the party so turned out of possession, no matter what right or title be had thereto, or the party against whom such possession is unlawfully detained, may commence suit to obtain possession of the land and damages for its detention, within two years after the cause of action accrues, before a justice of any district in the county in which such land, or the greater part thereof is situated.

Summons in such cases; when to be issued and what to contain.

212. At the instance of the party so turned out of possession, or against whom possession is unlawfully detained as aforesaid, the justice shall issue a summons commanding the officer to summon the defendant to appear before the said justice, at a time and place therein specified, to answer the action of the plaintiff for unlawfully withholding from the plaintiff the premises in question (describing them), and damages for their detention (if any are claimed). The place at which the defendant is to appear must be within the district, and the time must be not less than three nor more than ten days from the delivery of the summons to the officer to be served.

At what place and in what time, etc.

How directed, served and returned.

213. The summons must be directed, served, and returned as other summonses issued by justices.

When case to be tried.

214. On the return of the summons served, the justice shall proceed to try the case, unless good cause be

shown for a continuance. Either party shall be entitled to a trial by six jurors, if demanded, under the same regulations which are prescribed in relation to such trials in other cases before justices, except that the jury shall be sworn well and truly to try whether the defendant unlawfully withholds the premises in controversy from the plaintiff, and (if damages are claimed for the detention) to assess the plaintiff's damages for being so kept out of possession.

Either party may have jury.

Oath of jury.

215. If the verdict of the jury, or the finding of the justice when the case is tried without a jury, be that the defendant unlawfully withholds the premises in controversy, or any part thereof (describing the part), from the plaintiff, judgment shall be rendered in favor of the plaintiff that he recover possession of the premises, or of the part so described, and his costs. If damages are assessed by the justice or jury in favor of the plaintiff, the same shall also be included in the judgment, and the justice, when required by the plaintiff, shall issue an execution commanding the officer to whom it is directed to deliver possession of the premises, or such part thereof, to the plaintiff, and remove the defendant and his goods therefrom, and collect the said damages and costs out of the personal property of the defendant. Such execution shall be returnable within sixty days from its date, and as to the delivery of possession and removal of the tenant and his goods, it shall be executed within five days from the time it comes into the hands of the officer.

If verdict of jury, etc., be for plaintiff, what judgment to be entered.

Damages assessed included in judgment.

Execution; what to command.

When to be executed and returned.

216. If the verdict of the jury, or the finding of the justice, when the case is tried without a jury, be for the defendant, he shall have judgment and execution for his costs.

If defendant recover, to have judgment, etc., for his costs.

217. The judgment under either of the two preceding sections shall not bar any subsequent action of ejectment brought by either party.

Judgments in such cases no bar, etc.

218. The justice may set aside the verdict of the jury, or his own judgment, and grant a new trial as in other cases; and the laws relating to civil actions and proceedings before justices, so far as they are applicable and consistent with the seven preceding sections, shall regulate the actions provided for in those sections, and the process to be issued or proceedings had in such actions. Appeals shall lie to the circuit court from the judgment of justices in such actions, upon the same terms, within the same time, and subject to the same regulations as in other cases.

New trials in such cases may be granted.

What laws regulate proceedings in such cases.

Appeals.

*Proceedings Before Justices on Behalf of the State.*

219. A justice of the peace shall have jurisdiction of the following offenses, committed in his county, or on any river or creek adjoining thereto:

Jurisdiction of justices as to offenses committed in their counties, etc.

*First*—In cases of assault and battery, unless the offense was committed upon a sheriff or other officer of justice, or riotously or with intent to commit a felony, and no compromise with the party injured shall affect or prevent the trial of such offense by the justice.

*Second*—In cases of trespass to personal property: and if the defendant be convicted, either upon his own confession or upon a trial by the justice with or without a jury for either of the offenses hereinbefore named, he shall be fined not less than five dollars, nor more than fifty dollars.

*Third*—In cases of adultery and fornication and upon a conviction, as aforesaid, the defendant shall be fined twenty dollars.

*Fourth*—In any other case where the punishment is limited to a fine not exceeding ten dollars, or to imprisonment not more than ten days.

Circuit court to have concurrent jurisdiction with justice; except, etc.

220. The circuit court for the county, wherein the offense was committed of which a justice has jurisdiction, shall have concurrent original jurisdiction of such offense, except when imprisonment is imposed for contempt, pursuant to the one hundred and ninety-first section.

Proceedings before justice to be by warrant; except, etc.

221. The proceeding before the justice shall be by warrant of arrest in the name of the State, except that when an offense of which the justice has jurisdiction is committed in his presence, or in that of a constable, either of them may forthwith apprehend the offender, or cause him to be apprehended, and in such case the offender may be tried before the justice and dealt with according to law, without such warrant.

Warrant; to what officer to be directed, and where executed.

222. If the justice have jurisdiction, the warrant of arrest may be directed to any constable in the county in which the offense was committed, and the officer to whom it is directed may execute the same anywhere within his county, or on any river or creek adjoining thereto. It may be directed to the constable by name or official designation.

Warrant to be issued only on oath of some credible person; what to contain.

223. The warrant of arrest shall be issued only on the information, under oath, of some credible person. It shall describe the offense alleged to have been committed, as heretofore required in such cases by law, and command the officer forthwith to apprehend the accused and bring him before the justice, to be dealt with according to law.

Witnesses; how required to be summoned.

224. The justice may also, by endorsement on the warrant or by subpoena, direct witnesses to be summoned, and may proceed against them as for contempt if they fail or refuse to attend or testify.

When accused appears, justice

225. On the appearance of the accused, the justice may

proceed to try the case; but he may grant continuances, may try or continue the case, etc. from time to time, if the circumstances of the case require it. If a continuance be granted at the instance of the accused, the justice, if he sees fit, may require him to enter into a recognizance, with surety deemed sufficient, Recognizance for appearance. conditioned for his appearance at the time and place appointed for trial, to answer for the offense with which he is charged, and if such recognizance be not given, May commit for failure. may commit him to prison until the time appointed for trial, but such imprisonment shall not exceed five days. The accused, if such Accused to be discharged on his own recognizance, etc; when. continuance be not at his instance, shall be discharged from custody on his own recognizance, or without a recognizance, as the justice shall deem proper. The justice Judgment on recognizance. may render judgment on any recognizance taken by him pursuant to this section.

226. When the penalty authorized by law is a fine exceeding five dollars, or imprisonment, the accused shall be When accused entitled to trial by jury, etc. entitled to a trial by twelve jurors, or a less number if demanded, under the regulations respecting such trials in civil suits before justices; except that no preemptory challenge shall be allowed to the state, and that the jury shall Oath of jury. be sworn well and truly to try the case between the state and the accused, and to give a true verdict according to the evidence. If the jury find the accused guilty, they Verdict of jury; what to find. shall, subject to the limitations prescribed in section two hundred and nineteen of this chapter, ascertain the fine and term of imprisonment, if any, not exceeding ten days, unless the same be fixed by law.

227. Whether the trial is by jury or not, if the judgment be against the accused, it shall be for the costs of the proceeding in addition to the fine and term of imprisonment imposed, and when the accused is sentenced to imprisonment, whether a fine be also imposed or not, If accused found guilty, judgment to be for costs, in addition to, etc. or is imprisoned for non-payment of a fine and costs, the jailor's fees shall be included in the costs. Execution, to be collected out of the personal property of the accused, Execution for fines and costs. may be issued on such judgment for fine and costs, or for the cost alone, if the judgment be for imprisonment and costs without fine. Fee bills may be issued against the Fee bills may issue, etc. accused for costs incurred at his instance, including the jailor's fees, under the same regulations and with like effect as in civil suits.

228. When a fine is imposed, whether with or without imprisonment, and whether execution be issued under the preceding section or not, the justice, if he see fit, may Imprisonment of accused for fine and costs; when. adjudge the offender to be imprisoned until such fine and all the costs are paid, but not exceeding ten days for that cause; and if fine and imprisonment be imposed, the not to exceed ten days, etc. offender may be imprisoned for not exceeding ten days on account of the non-payment of the fine and costs, in addi-

Offenders to be imprisoned in county jail, unless, etc.

tion to the term of imprisonment imposed for the offense. When the offender is to be imprisoned, it shall be in the county jail, unless otherwise provided by law, under a warrant of commitment to be issued by the justice. And if he is not in custody, the justice may issue a warrant for his arrest and commitment in such jail.

Fines received by justice to be paid to sheriff.

229. All fines which accrue to the state, collected or paid in any proceeding under this chapter before a justice, shall immediately be paid by the justice receiving the same to the sheriff of the county. If any justice fail therein, he shall forfeit twenty dollars for every such offense. The sheriff shall enter the sums so paid to him to the credit of an account, to be kept by him under the heading "general school fund." All claims by justices, constables, jailors, and others, for fees due them in like proceedings in the county, where the accused is acquitted, or when such fees could not be collected on execution or fee bills, by the exercise of proper diligence, shall be audited and examined by the county court, and if found correct, the court shall cause orders to be issued therefor on the sheriff, to be paid out of such fund, if sufficient, and charged to said account. The sheriff, during the month of January or February annually, shall render, under oath, to the auditor a true statement of the said account, and pay into the treasury of the state the net proceeds of the said fines as exhibited by the said account, to be appropriated as directed by the fifth section of article twelve of the constitution. If any sheriff fail herein, he shall forfeit twenty dollars; and, moreover, he and his sureties, his and their personal representatives, shall be liable to the state in the same manner and to the same extent as for other moneys in his hands due the state. Every justice shall, annually, in the month of January, certify to the clerk of the county court of his county a list of all fines imposed by him during the preceding year, and stating therein such as have been paid to him, and such as remain uncollected by him; and the clerk of every county court shall, upon receiving such certificate of the justice, certify to the auditor the amount of money appearing thereby to have been paid to the sheriff; and if he fail to do so, he shall be fined not less than twenty nor more than fifty dollars. He shall also state in such list for which of such fines (if any) executions have not been returned, or returned unsatisfied, and for which (if any) executions have been returned satisfied and the money not paid to him, with the name of the officer or person so failing to return or pay, and such as have been paid by him to the sheriff, and if he fail to do so, he shall be fined not less than fifty nor more than one hundred dollars.

Penalty for failure.

To be credited to what fund.

What claims to be audited, and paid out of such fund.

Sheriff to render to auditor a statement under oath, etc.; when, etc.

Penalty for failure.

Liability of sheriff and his sureties.

Justice to certify all fines imposed by him; when, and to whom.

What must be stated therein. Duty of clerk of county court as to such certificate.

Penalty for failure.

What clerk to state in list certified to auditor.

Penalty for failure.

Persons sentenced to im-

230. Every person sentenced to imprisonment under this chapter by the judgment of a justice, or to the pay-

ment of a fine exceeding ten dollars, shall be allowed an appeal to the circuit court of the county, upon entering into a recognizance before the justice, with surety deemed sufficient, to appear before the said court on the first day of the next term thereof, to answer for the offense where-with he is charged, and not depart thence without leave of the court. If such appeal be taken, the warrant of arrest (if there be any), the transcript of the judgment, the recognizance, and other papers of the case, shall be forth-with delivered by the justice to the clerk of the court, and the court shall proceed to try the case as upon indictment or presentment, and render such judgment, without remanding the case as the law and the evidence may require. If the judgment be against the accused, it shall include the costs incurred in the proceedings before the justice as well as in the said court, including a fee of ten dollars to the prosecuting attorney, and the jailor's fee, if any.

Prisonment may appeal to circuit court.

Recognizance of defendant.

Papers, etc., to be delivered to clerk of court by justice.

How tried, etc.

What costs included if judgment be against accused.

#### *Proceedings before Justices for Violation of Ordinances.*

231. Unless otherwise specially provided, a justice shall have jurisdiction of every violation of any lawful ordinance of the council of a town or village, but not of a city in his county, if the punishment therefor be limited by law or ordinance to fine not exceeding ten dollars, or imprisonment not exceeding ten days, or to fine not exceeding ten dollars and imprisonment not exceeding ten days.

Violation of ordinances; jurisdiction of justices as to.

232. The proceeding in such case shall be by summons in the corporate name of the town or village, as plaintiff, and shall conform, so far as practicable, to the regulations respecting civil action before justices. But the justice, for good cause shown, may, by endorsement on the summons, order the person charged with such violation to be forthwith apprehended and brought before him to answer therefor.

Proceedings in such cases; in what name, etc.

When accused may be apprehended, etc.

233. The two hundred and twenty-fifth and following sections to the two hundred and twenty-eighth, inclusive, of this chapter, shall apply to such proceeding. When the suit is for the violation of an ordinance of a town or village, the process therein may be directed to the sergeant or constable of the said town or village, if there be such officer, and may be executed by him within the county.

What sections apply to such proceedings.

Summons; to whom directed and where executed.

#### *Constables and Officers Deputed to Serve Process and Orders.*

234. The constable or other officer shall attend all trials in his district, town or village, in which he may have served process, and preserve order and enforce the lawful commands of the justice during the same.

Duty of officers serving process, etc.

235. It shall be the duty of such officer, on receipt of any summons, order, execution, or other process issued

To note on process, etc., time of receiving same.

**To serve and execute, etc.** by a justice, except a subpoena, to note thereon the time of receiving the same; to serve and execute the same, subpoenas included, according to the command thereof and the provisions of law; to make true return thereof to the proper justice on the return day, stating in such return the time and manner of executing the same, or why it was not executed; to subscribe his name to such return, and to pay all money received by him in his official capacity to the justice before whom the suit or proceeding is pending.

**Return; how made and what to be stated thereon.**

**To pay all moneys to justices**

**To have same powers in executing process, etc., as sheriff.**

236. In serving and executing the orders and process issued by a justice, the officer may exercise the same authority over persons and property, as it would be lawful for a sheriff to exercise under like orders or process from the circuit court.

**Fines on officer for neglect of duty, false return, etc.**

237. Every officer who shall neglect or refuse to serve or execute any lawful process or order in his hands, issued by a justice, when in his power to do so, or shall make a false return thereon, or shall fail to return the same on the return day thereof, or shall fail to perform any duty which he is required by law to perform in relation thereto, shall, if there be no other fine or punishment imposed therefor, be fined not exceeding fifty dollars for every such offense; and, moreover, he and his sureties, or any one or more of them, and the personal representatives of such of them as are dead, shall be liable to the person injured thereby to the extent of such injury, with interest and ten per cent. damages.

**Liability of officer, to party injured.**

**Constable going out of office to finish business in his hands, etc.**

238. Every constable going out of office may finish the business in his hands remaining unfinished, in the same manner as if his term had not expired; but if he declines to do so, he shall deliver to his successor all process and orders in his hands, with his proceedings thereon endorsed, and also all property levied on or attached and remaining unsold, and take such successor's receipt therefor, including in different receipts the process and orders from different justices, and shall return such receipts respectively to the proper justices, who shall enter the same on their dockets and carefully preserve the originals. Upon the death of a constable, the same duty shall devolve on his personal representatives.

**Or may deliver same to his successor.**

**Receipts to be returned to proper justice; his duty, etc.**

**Duty of personal representatives of deceased constables.**

#### *Construction of Certain Words.*

**Construction of certain words.**

239. The word "justice" or "justices" when used in this chapter shall be construed as if immediately followed by the words "of the peace."

#### *Acts Repealed.*

**Acts repealed.**

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

[Approved March 11, 1881.]

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER IX.

AN ACT providing for cases appealed or transmitted from justices.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

1. In every case in which an appeal has been taken from the judgment of a justice to a county court at any time prior to the passage of chapter eight of the acts of 1881, entitled "An act to revive, amend and re-enact chapter fifty of the code of West Virginia," and since the twelfth day of October, one thousand eight hundred and eighty, and when such appeal has been taken in conformity to the laws then in force; and where an appeal had been granted by the president of any county court between the said twelfth day of October, one thousand eight hundred and eighty, and the first day of January, one thousand eight hundred and eighty-one, in like conformity to law, it shall be the duty of the clerk of such county court to transmit to the office of the clerk of the circuit court of his county all of the papers and documents relating to such appeal, and the same shall be docketed and proceeded with in the said circuit court, the same as a case of appeal from a justice taken under the act in this section cited and referred to.

Appeals from justices since October 12, 1880, etc.  
Duty of clerk of county court in relation to.

Also, as to appeals granted by president of court.

Same to be docketed and proceeded with, etc.

2. The provisions of the foregoing section shall in like manner apply to all cases transmitted by justices to the county court during the intervening period first mentioned in said foregoing section.

To apply; also to cases transmitted to justice by county court during, etc.

3. And acts done by the presidents of county courts between the twelfth day of October, one thousand eight hundred and eighty, and the first day of January, one thousand eight hundred and eighty-one, in pursuance of an order of said county court made before that time are made legal and valid.

Acts of presidents of county courts, between, etc., made valid.

[Approved March 16, 1881.]

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.



## CHAPTER X.

AN ACT to revive, amend and re-enact chapter four of the code of West Virginia, concerning vacancies in office.

[Passed March 5, 1891.]

Be it enacted by the Legislature of West Virginia:

Chapter 4 code amended and re-enacted.

1. That chapter four of the code of West Virginia be and the same is hereby revived, amended and re-enacted so as to read as follows:

## CHAPTER IV.

## VACANCIES IN OFFICE.

*General Rule in Relation to Vacancies.*

Elections to fill vacancies Where held. How superintended, etc.

1. Elections to fill vacancies shall be for the unexpired term; and shall be held at the same places as other elections, and superintended, conducted and returned, and the result ascertained, certified, and declared in the same manner, and by the same officers; and the persons elected, having first duly qualified, shall enter upon the duties of their respective offices.

*Vacancy in Office of Governor.*

Vacancies in the office of governor. By whom filled.

2. In case of the death, conviction or impeachment, failure to qualify, resignation or other disability of the governor, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of delegates; and in all other cases where there is no one to act as governor, one shall be chosen by the joint

When new election for governor shall take place.

vote of the legislature. Whenever a vacancy shall occur in the office of governor before the first three years of the term shall have expired, a new election for governor shall take place to fill the vacancy. If the vacancy occur more than forty days next preceding a general election the vacancy shall be filled at such election, and the acting governor for the time being shall issue his proclamation accordingly, which shall be published in one newspaper in each county, where such paper is published, at least once in each week for four successive weeks prior to said election.

Proclamation of such election. By whom made. How published.

But if it occur less than forty days next preceding such general election such acting governor shall issue his proclamation fixing a time for the election to fill such vacancy, which shall be published as hereinbefore provided; and it shall be the duty of the commissioners of elections in each county to hold the said election accordingly.

Within what time.

Duty of Commissioners.

*Vacancy in the Office of Auditor, Treasurer, State Superintendent of Free Schools and Attorney General.*

3. If the office of auditor, treasurer, state superintendent of free schools or attorney general shall become vacant by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified. If such vacancy occur not more than forty days next preceding a general election, the person so appointed shall hold his office for the unexpired term, but if it occur more than forty days next preceding such election, it shall be filled by a vote of the people at such election, and the governor shall issue his proclamation accordingly. Said proclamation shall be published at least once in each week for four successive weeks in one newspaper printed in each county, wherein such paper is printed, prior to said election.

Vacancy in office of auditor, treasurer, etc.

Governor to appoint.

Proclamation for election. How published.

*Vacancy in Office of Judge of the Supreme Court of Appeals and Circuit Court.*

4. If from any cause a vacancy shall occur in the office of judge of the supreme court of appeals, or judge of a circuit court, the governor shall issue a writ of election to fill the vacancy, at the next general election, for the residue of the term, and in the meantime he shall fill such vacancy by appointment until a judge is elected and qualified. But if the unexpired term be less than two years, the governor shall fill such vacancy by appointment for the unexpired term. Every such writ of election shall be directed to the commissioners of elections in each county of the state, in case it be to fill a vacancy in the supreme court of appeals; and to the commissioners of elections in each county in the judicial circuit, in case it be to fill a vacancy in the office of judge of said circuit, and shall be published in one newspaper in each county of the state or district in which such paper may be published, at least once in each week, for four successive weeks prior to said election.

Vacancy in office of judge, governor to issue writ of election to fill vacancy.

When governor to appoint.

Writ of election; to whom directed.

*Vacancy in Representation in Congress.*

5. If there be a vacancy in the representation from this state in the congress of the United States, the governor shall, within ten days after the facts come to his knowledge, give notice thereof by proclamation, to be published in such newspapers in the district where such vacancy may occur, as he may deem best calculated to give information thereof to the voters of such district. In such proclamation he shall appoint some day, not more than sixty, nor less than thirty days from the date thereof, for holding the election to fill such vacancy, which election shall be held by the commissioners of elections in each

Vacancy in representative in congress. How filled. Governor to give notice by proclamation.

county in the district accordingly; and said commissioners shall make return of the result of said election in the same manner as is prescribed by law in case of the election of such representative in congress for a full term.

*Vacancy in office not elective during recess of Senate.*

**Vacancy in office not elective.** 6. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall, by  
**How filled.** appointment, fill such vacancy until the next meeting of the senate, when he shall make a nomination for such office, and the person so nominated, when confirmed by  
**To be confirmed by senate.** the senate (a majority of all the senators elected concurring by yeas and nays) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person shall be so appointed during the recess of the senate, who has been nominated to and rejected by the senate for the same office. The  
**When rejected by senate, not to be appointed during recess.** bonds, if any be required by law to be given by any officer so temporarily appointed by the governor, shall be in  
**Bond of officer temporarily appointed.** such penalty as the governor may prescribe.

*Vacancies in the Legislature.*

**Vacancies in the Legislature, occurring in recess, writ to issue by governor.** 7. A writ of election to fill a vacancy in the legislature shall be issued by the governor, when the vacancy occurs during the recess of the legislature, and by the president of the senate or speaker of the house of delegates, as the case may be, when such vacancy happens during the session, or a writ of election has not theretofore issued. And it shall be the duty of the clerk of the circuit court of the county in which the senator or delegate resided at the time such vacancy occurs, if it occur by the death of such senator or delegate in the recess of the legislature, to inform the governor thereof. The said writ shall be directed to the sheriff of the proper county, or to the sheriffs of the several counties included in the delegate or senatorial district, as the case may be, and shall prescribe the day of election; and every sheriff, on receiving the same, shall immediately give notice thereof to the commissioners of elections in the several districts of his county; and shall also cause notice of the same to be conspicuously posted at every place of voting in such county and to be published in a newspaper if there be any published therein.

**During session by speaker of house or president of senate. Clerk of circuit court to notify governor.**

**Writ of election; to whom directed.**

**Day of election to be prescribed. Duty of sheriff in relation to.**

**Notice of election; how published and posted.**

*Vacancy in Office of Clerk of the Circuit Court.*

**Vacancy in the office of clerk of the circuit court; how filled. When election held.** 8. When a vacancy shall occur in the office of clerk of the circuit court, the said court, or the judge thereof in vacation, shall fill the same by appointment until the next general election, and the person so appointed shall hold his office until his successor is elected and qualified. At the said general election a clerk shall be elected to fill said vacancy for the unexpired term, and the said court, or the

judge thereof in vacation, shall cause a notice of such election to be published in one or more newspapers printed in the county, if there be any such papers printed therein, or in such other manner as will give full notice of said election.

Judge to cause notice of election to be published.

*Vacancy in the Office of Commissioner and Clerk of the County Court, Justices of the Peace and Constables.*

9. Vacancies in the office of county commissioners and clerk of the county court, justices of the peace and constables shall be filled by the county court of the county until the next general election, at which election every such vacancy shall be filled by a vote of the people for the unexpired term; of which election to fill such vacancy, a notice shall be given as directed by the next preceding section, except that notice of an election to fill a vacancy in the office of justice of the peace or constable shall not be published in a newspaper.

Vacancy in the office of commissioner, clerk of county court, justice or constable; how filled.

Notice to be given. Exception as to justice and constable.

*Vacancy in the Office of Prosecuting Attorney, Sheriff, Surveyor of Lands and Assessor.*

10. A vacancy in the office of prosecuting attorney, happening after the last general election before the expiration of the term of office of such attorney, shall be filled by the circuit court of the county, or judge thereof, for the unexpired term; otherwise it shall be filled by said court or judge until the next general election; and a vacancy so happening in the office of sheriff, surveyor of lands, or assessor, shall be filled by the county court for the unexpired term; otherwise it shall be filled by the said county court until the next general election. At which general election every vacancy shall be filled by a vote of the people, where an appointment has been made, as aforesaid, from the next general election, for the unexpired term. A notice of every such election of prosecuting attorney, shall be given by order of the circuit court, or the judge thereof in vacation, and of the election of a sheriff, surveyor of land, or an assessor, by the order of the county court or the president thereof in vacation, as prescribed in the eighth section of this chapter.

Vacancy in the office of prosecuting attorney. How filled.

Vacancy in the office of sheriff, surveyor of lands or assessor. How filled. Where appointments made elections to be had at next general election. Prosecuting attorney; notice of election for to be given by order of circuit court. Surveyor of lands and assessor; notice by county court.

*Bonds of Officers Appointed.*

11. The bond, if any be required by law to be given by the person appointed as aforesaid, shall be approved by the court, or judge making the appointment, and be in such penalty as said court or judge may direct.

Bond, if required, by whom approved.

*Expenses of Publication of Notices.*

12. All expenses incurred for the publication of notices under the provisions of this chapter, shall be audited by the county court and paid out of the county treasury.

Expenses of publication of notices; how paid.

Words "county court" construed.

13. The words "county court," when used in this chapter, shall be construed to mean and include every tribunal heretofore established and now existing in any county, for police and fiscal purposes, in lieu of the county court.

*Laws Repealed.*

Inconsistent acts repealed.

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

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

CHAPTER XI.

AN ACT to amend and re-enact chapter one hundred and eighteen of the Code of West Virginia, relating to the probate of wills, and the appointment and qualification of personal representatives, guardians, committees and curators, during the recess of the regular sessions of the county courts.

[Passed March 8, 1881.]

Be it enacted by the Legislature of West Virginia:

Code amended.

1. That chapter one hundred and eighteen of the Code of West Virginia be and the same is hereby amended and re-enacted so as to read as follows:

CHAPTER CXVIII.

*Of the Probate of Wills, the Appointment of Appraisers of the Estate of Decedents and the Appointment and Qualification of Personal Representatives, Guardians, Committees and Curators, During the Recess of the Regular Sessions of the County Courts.*

Clerks of county courts. May appoint appraisers. Admit wills to record. Appoint executors, administrators, etc.

No contest to be determined by clerk.

1. The clerk of any county court during the recess of the regular sessions of such court, may appoint appraisers of estates of decedents, admit wills to record, appoint and qualify executors, administrators, guardians, curators and committees, and require and take from them the necessary bonds in the same manner and with like effect, for the time being, as the said county court could do if in session, but no contest as to such probate or appointment shall be heard or determined by such clerk.

*Appointment, &c., to be Reported to County Court—Proceedings therein.*

2. The probate of every will, and the appointment of

every appraiser of the estate of a decedent, executor, administrator, guardian, curator and committee so made by such clerk, shall be reported by him to the next regular session of the county court, when, if no objection be made thereto, the court shall confirm the same. But if objections be made by any person interested, the county court shall hear and determine the same, and shall proceed in relation thereto in the same manner as if the application for the probate of such will, or the appointment of such appraiser of the estate of a decedent, executor, administrator, guardian, curator or committee had been made to said court. And the court may make from time to time, pending such proceedings, such orders as it may deem necessary for the protection and safe-keeping of the estate of the testator or intestate.

Appointment, etc., to be reported to county court.

Proceedings therein.

*Confirmation of Action of Clerk—Its Effect.*

3. When the probate of such will, or the appointment and qualification of such appraisers of estates of decedents or the appointment of such executor, administrator, guardian, curator or committee is confirmed by the court, with or without contest, the same shall be held and treated in all respects, as if the will had been admitted to record, or the appointment had been made by the county court in the first instance.

Confirmation of action of clerk; its effect.

*In Case of Contest Prevailing Party to Recover Costs.*

4. When objection is made to the action of the clerk, as mentioned in the second section of this chapter, the party prevailing in the trial of such objections, shall recover from the opposite party his costs.

In case of contest prevailing party to recover costs.

2. All acts and parts of acts inconsistent with this act be and the same are hereby repealed.

Acts repealed.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House by a vote taken by yeas and nays, having so directed.

CHAPTER XII.

AN ACT to revive, amend and re-enact chapter twenty-nine of the Code of West Virginia, concerning the assessment of taxes.

[Passed March]12, 1881].

Be it enacted by the Legislature of West Virginia:

1. That chapter twenty-nine of the code of West Virginia

Code revised  
and amended.

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

CHAPTER XXIX.

ASSESSMENT OF TAXES.

*Number of Assessors—Assessment Districts.*

Assessment  
districts in each  
county, and the  
number of  
assessors to be  
elected.

1. There shall be two assessment districts in each of the counties of Barbour, Berkeley, Cabell, Fayette, Greenbrier, Hampshire, Harrison, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Mason, Marion, Marshall, Mineral, Monongalia, Monroe, Ohio, Preston, Randolph, Ritchie, Roane, Summers, Taylor, Upshur, Wetzol, Wood and Wayne. Every other county shall constitute one assessment district, and the voters of each county shall hereafter elect one assessor for every district therein.

County court  
may change  
lines of districts.

Magisterial  
districts not to  
be divided.

2. When there is more than one district in a county, the county court may, by order, lay off and change the boundary between such districts; but in laying off or changing the said boundary, no magisterial district shall be divided.

Authority of  
assessor  
confined to his  
district,  
exception.

3. The authority and duty of an assessor shall not extend beyond his district, except to grant license for a privilege which may lawfully be exercised in or out of the the district.

*Removal of Assessors on Complaint of the Auditor.*

How assessors  
removed from  
office.

4. The auditor shall communicate to the county court of the county, any instances of misconduct or official neglect on the part of any assessor of such county, and any evidence of his incompetence, which may appear from the books and papers in the auditor's office; and the court shall proceed to investigate the same, and may remove the assessor from office, pursuant to the seventh section of the seventh chapter of this Code.

*Forms and Instructions to be Furnished by the Auditor to Assessors.*

Auditor to  
furnish  
assessor forms  
and instruc-  
tions.

5. The auditor shall prepare and forward to the assessors printed forms for the personal property books, and also for the lists of taxable subjects to be furnished by assessors to persons chargeable with taxes. He shall also, by letter or printed circular, give such instructions to the assessors respecting their duties as may seem to him judicious; and if any assessor fail to obey such instructions so far as they are not contrary to law, he shall forfeit not less than ten nor more than thirty dollars.

Penalty for  
failure to obey  
instructions.

*Books and Papers of His Predecessor.*

6. The assessor shall apply for the official books and

papers which his predecessor had, to the person in possession thereof; and if such person fail or refuse to deliver the same, he shall forfeit one hundred dollars.

Books and papers of predecessors. Penalty for failure or

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

Duty of auditor when official books cannot be obtained. How substitutes or copies paid for.

*Clerk to Make out Land Books; Correction of Mistakes Therein.*

8. The land books for every county shall, in the year one thousand eight hundred and eighty-one, be made out by the clerk of the county court of the county and the assessor of each assessment district therein, acting together, as to the land books of such district; and it shall be the duty of every such assessor, immediately after the passage of this chapter, as amended, to deliver one copy of the land books in his possession for the year one thousand eight hundred and eighty-one to the said clerk, to enable him to discharge the duties required of him by this chapter. Every such assessor shall attend at the office of the clerk of the county court of his county in said year for such time as may be necessary to make out, with the assistance of said clerk, the land books of his district in time to have said books before the county court at the session thereof at which it lays the county levy. Said clerks and assessors shall each receive a reasonable compensation for the work done by him in making out said books, to be fixed by the county court and paid out of the county treasury. In making said land books for said year they shall be governed, as to the value of the lands and lots in such assessment district, by the land books first made out in pursuance of the last re-assessment of the real estate made throughout the state, except so far as such re-assessment was corrected by the county court within the time prescribed by the act under which the same was made, and they shall disregard all changes made by the county court in the value of any tract or lot of land since the expiration of the time fixed by said act in which such change could legally be made. In other matters they shall be guided, as far as practicable, by the last land books made out for such district, but they shall correct all errors and mistakes which they may find therein as to the names of the persons properly chargeable with taxes on any tract or lot, and charge the same to the person properly chargeable with such taxes, and shall correct all errors and mistakes as to the number of acres properly chargeable to such person or otherwise. Mistakes in the land books, as made out and delivered to the sheriff in this or any other year, may be corrected by the county court of the county

Land books for year 1881; how made out.

Assessor to deliver copy to clerk of county court.

Assessor to attend at office of clerk of county court.

When book to be completed. Compensation of clerk and assessor.

Rule for making out land book.

Corrections to be made; how made, etc.



Application for to be in writing. Prosecuting attorney to have notice.

at any time before the first day of August in the year next following that for which said books were made out, on the application in writing of any person interested; but before such application is acted on, the prosecuting attorney of the county must have reasonable notice thereof, and he shall attend and defend the interest of the state, county and district at the hearing of such application. If it appear on such application that the tract or lot, or any part of it mentioned in the application, is improperly charged to the applicant; or that the quantity or location thereof as charged is incorrect; or that the amount of taxes charged thereon is greater or less than is proper, or that the value of any lands, lots or buildings assessed by the assessor under sections ten, twenty-seven and twenty-eight of this chapter is erroneous; or that any clerical error or mistake has been made as to any such tract or lot, the county court shall, by an order entered of record, correct the same. But nothing herein contained shall be so construed as to give to the county court power to change the value of any tract or lot of land, or of the buildings thereon, except where the same has been assessed under the provisions of the sections aforesaid. *Provided*, That the county court shall make such changes, as it may deem proper, in the value of any tract or lot in any assessment district by increasing or diminishing the same, but not so as to decrease the aggregate value of the real estate in any county as fixed by the said last re-assessment thereof, as corrected by the county court as aforesaid, and every order of the county court making such change shall show that the aggregate value of all the real estate in such county is not decreased thereby; otherwise the auditor shall disregard such change and disallow any exoneration made by such order. But if the real estate of any person, or of any mining, manufacturing or oil company, by reason of floods or the abandonment of the works and property of such person or company, has been or shall be materially lessened in value from what it was at the time of such re-assessment, the value thereof may be changed and the true value placed thereon by the county court, notwithstanding it may reduce the aggregate value of the real estate in such county as fixed as aforesaid; and the auditor shall allow such exoneration if the order show the same to have been for such cause. If the court, upon an application to correct an assessment under any of the provisions of this chapter, refuse to make the correction asked for, the applicant may have the evidence taken thereon certified by the county court, and an appeal may be taken, as in other cases, from the order of refusal to the circuit court of the county, and such appeal, when allowed by the court or judge, shall have preference over all other cases pending in such court; and whenever any such assessment is corrected as aforesaid by the county court or by the circuit court, on appeal the clerk of the

Aggregate value of real estate in county not to be decreased.

Order of county court; what to show.

Mining, manufacturing or oil property diminished in value by floods or abandonment may be changed.

If relief be refused, evidence certified and right of appeal to circuit court.

Appeal to have precedence over other cases.

county court shall, upon the delivery to him of a copy of the order of the court showing such correction, correct the land books accordingly, and charge up the taxes thereon according to such corrected assessment, and the value of such real estate as so corrected shall continue until the same is changed pursuant to law. But no taxes assessed and paid upon real estate the value, of which has been lessened by reason of floods or the abandonment of works and property of any such person or company as is hereinbefore mentioned prior to such change, shall be released or refunded to the owner thereof. After the year one thousand eight hundred and eighty-one the land books of every county shall be made out by the clerk of the county court of such county, who shall do and perform all the duties in relation to the making out of said land books heretofore required of the assessors.

Taxes assessed and paid not to be refunded.

Clerk of county court to make out land books after year 1881.

9. The clerk of the county court, in making out the land books, shall correct any and every mistake he may discover in the original land books, and if any taxes have been omitted for a former year, he shall enter the same, with lawful interest thereon, for collection.

Clerk to correct land books. To enter taxes omitted for a former year, etc.

10. When the assessor shall ascertain that there is any land in his district which has not been entered in the land book, or after being so entered, has from any cause been omitted for a period of less than five years, he shall make an entry thereof, and of the name of the owner, in the copy of the land book in his possession; and if there be no assessment of the same, shall proceed to make such assessment, to the best of his judgment, by reference to the assessed value of contiguous land similarly situated, and shall certify to the clerk of the county court all the taxes which should have been charged or collected, with lawful interest thereon; and the clerk of the county court shall be governed thereby in making out the land book. Any assessor failing to make such entry and deliver such certificate shall forfeit twenty dollars. And if the clerk of the county court make any such discovery, he shall enter the same in the land books and inform the proper assessor thereof, who shall assess the same as aforesaid, and certify his assessment to the clerk; and the clerk shall thereupon charge said real estate with taxes as aforesaid.

Assessor to enter and assess lands not on land books and not before assessed. Within what time.

How assessed.

Penalty for failure.

11. If any land which ought to be assessed in one assessment district be assessed in another, the assessor in whose book it has been erroneously entered, shall certify the owner's name, and the quantity, description and assessed valuation of such land to the clerk of the county court, who shall enter the same in the land book of the proper district, and charge the tax thereon; and shall strike the same from the land book in which it was improperly assessed. And without such certificate the clerk of the county court shall make such entry, correction and

Duty of assessor where lands are not assessed in proper assessment district. To certify same to clerk of county court.

Duty of clerk.

charge, whenever the necessity therefor is brought to his knowledge.

Change in boundaries of counties or districts, or new ones created.

12. The regulations contained in the preceding section shall be held applicable in cases where the boundaries of counties or districts are changed, or a new county or district has been created.

*Change of Ownership or Valuation—General Rule Respecting.*

Land correctly charged not to be transferred or re-assessed except as provided by law.

13. Land which has been correctly charged to one person upon the land book shall not afterwards be transferred to another, or the valuation assessed thereon be changed, until a general re-assessment be ordered by the Legislature, except as provided in this chapter.

*Several Deeds for Same Tract, &c.*

Tract of land to be charged as a whole and not in parcels.

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

Clerks of circuit and municipal courts to furnish lists as to judgments and decrees for land.

Contents of such lists.

15. The clerk of every circuit and municipal court shall annually, in the month of January, make out lists of all judgments and decrees for the partition or recovery of lands which have been rendered by their respective courts, and have not been before reported to the proper officer, stating in such list the date of the judgment or decree in each case, the land recovered and by whom, or the land which was divided, and between whom and in what parcels.

Lands in another county devised by will. Clerk to make list of.

16. The clerk of every county court shall annually, in the same month, make out a list of all lands, if any, lying in another county absolutely devised by wills recorded in his office and not before reported to the proper officer, stating in such list the date of the will in each case, when admitted to record, the names of the deviser and devisee, and a description of the land devised.

Lists, how transmitted.

17. Every list mentioned in the two preceding sections shall be delivered or transmitted by mail by the officer making it, to the clerk of the county court of the proper county.

Secretary of state; duty of as to grants for land issued by the state.

18. The secretary of state shall annually, in the month of January, make out and forward to the clerk of the county court of each county, an abstract of all grants issued by the state for land lying in such county not previously reported for assessment.

Penalty for failure of officer to perform duty.

19. If any officer fail to perform any duty required of him by the five preceding sections, he shall forfeit not less than ten nor more than fifty dollars for every such failure.

20. Any party interested may procure at his own cost, a certified copy or statement of any deed, judgment, decree or grant, and deliver the same to the clerk of the county court, and the clerk may examine original deeds or the records of his or any other county to ascertain to whom any parcel of land is properly chargeable, or its description or quantity.

Copy of deed, decree, etc.  
Delivery thereof to assessor.  
His duty thereon.

*Change of Ownership or Value—How Entered by the Clerk.*

21. Such changes as happen within the district of any assessor shall be noted in the proper land book as follows:

Changes to be noted by assessor.

22. The clerk shall enter in the proper land book all lands appearing by the abstract of the secretary of state to have been granted and not previously entered therein, and shall deliver said abstract to the proper assessor, who shall assess the value thereof with reference to the assessed value of contiguous land similarly situated, and return said abstract with his assessment to the clerk. If the clerk fail to enter any grant mentioned in said abstract, in the first land book made out after such abstract is received by him, he shall forfeit twenty dollars.

Clerk to enter lands granted by State.  
Assessor to assess value thereof.  
How assessed.  
Penalty for failure.

23. Real estate purchased for the state at a sale for taxes, shall not be thereafter entered in the land book, but the auditor shall keep a register thereof. But when any real estate so purchased appears by the auditor's certificate to have been redeemed, the same shall be replaced in the land book in the name of the former owner or his grantee. And the auditor shall in the month of January in each year, certify to the clerk of the county court a list of such lands in his county as have been so redeemed within the preceding year. When real estate is sold to an individual for taxes, the clerk shall note in the land book the number of acres sold, and to whom, but shall continue the land upon said book in the name of the former owner, until the purchaser obtains a deed therefor.

Real estate purchased by state at sale for taxes not to be entered. Auditor to certify redemption of land so sold.  
When real estate sold for taxes to individual; how entered.

24. The land specified in the lists, copies, deeds, records, abstracts and statements mentioned in the fourteenth, fifteenth, sixteenth, eighteenth and twentieth sections of this chapter, shall be transferred in the land book to the persons who appear thereby to be the owners thereof.

Lands specified in lists, etc., to be transferred to proper persons.

*When a Tract is Divided—Surface Land and Minerals Under the Same.*

25. When a tract or lot of land becomes the property of different owners, in several parcels, or one person becomes the owner of the surface, and another of the minerals under the same, the assessor shall divide the value at which the whole had before been assessed, among the different owners, having regard to the value of each interest compared with that of the whole, and enter the same on the copy of

Surface and minerals underlying same.  
When owned by different persons how entered.

the land book in his possession, or upon a statement appended thereto. If any person interested be dissatisfied with the division so made, he may apply to the assessor to correct the same, and the assessor, giving ten days' notice to the parties concerned, or such of them as are found in his assessment district, shall make a re-apportionment or confirm the division before made, according to the best of his information and judgment. Any party, having given like notice, may apply to the county court of the county to review the assessor's decision, as in other cases, and the court, if satisfied that such decision is erroneous, may correct the same, and order the proper apportionment to be entered upon the land book.

How division corrected.  
Notice required.

County court may review division and correct same.

#### *Lands of a Deceased Person.*

Real estate of decedents.  
How listed.

Each heir liable for tax.

Remedy in such case.

When land charged to devisee.  
How land charged if under will it is to be sold.

26. When the owner dies intestate, his undivided real estate may be listed to his heirs without designating any of them by name, until they shall have given notice to the clerk of the county court of the division of the same, the names of the several heirs, and the parcels allotted to each; and each heir shall be liable for the whole tax assessed upon such land while it is so listed; but when he pays the same, he may recover of the others their proper proportion of the amount so paid, and the proportion thereof for which such other or others are liable shall be a lien on the interest owned by him or them in such lands; and such liens, when the amount so paid exceeds twenty dollars in all, may be enforced in a court of equity. Where the owner has devised the lands or a freehold estate therein absolutely, the clerk shall charge such land to the devisee. If, under the will, the land is to be sold, it shall be charged to the decedent's estate, and the assets in the hands of the personal representative shall be liable for the taxes until a sale and conveyance thereof be made.

#### *How Old or New Buildings are to be Assessed.*

Assessments of buildings; when and how made.

Taxes on omitted buildings; how charged.

When new buildings, etc., to be assessed.

27. Every assessor shall in each year assess and enter in the land book in his possession the value of any old building committed for one or more years, and of addition or improvement to a building, and of any building newly erected, not theretofore assessed, if the same be of the value of one hundred dollars or upwards. Such building, whether now or old, and such addition or improvement shall be valued as nearly as may be at the same rate at which other buildings in the neighborhood were valued by the assessor at the previous general assessment, and the valuation thereof be added to the value at which the land was before charged. And where it is an old building omitted for one or more years, the taxes for former years shall be charged with lawful interest thereon.

28. No new building, addition or improvement shall be assessed until it is so far finished as to be fit for use.

29. When any building, which may have been assessed, shall become reduced in value one hundred dollars or more, the assessor shall deduct the amount of such reduction from the value of the building assessed against the owner, and where any building shall be wholly destroyed or reduced to less than one hundred dollars in value, the assessor shall deduct from said assessment the amount for which such building was assessed. If the owner of any building so assessed shall feel himself aggrieved thereby, he may, within twelve months after such assessment, apply to the county court of his county to have the same corrected; but he shall, before such application is made, give notice thereof, in writing, to the prosecuting attorney, whose duty it shall be to attend to the interests of the county, state and district therein. A copy of all orders made by the county court changing the assessed value of any real estate, shall forthwith be certified by the clerk of such court to the auditor. For any failure on the part of the assessor to comply with this or any of the three preceding sections, he shall forfeit fifty dollars.

Deduction to be made where value of building reduced \$100.

Same where building is destroyed.

Party aggrieved may apply to county court.

Notice to prosecuting attorney.

Orders changing assessed value to be certified to auditor.

Penalty on assessor.

*Machinery and Fixtures Attached to Mills and Manufactories.*

30. In assessing the value of buildings used or intended to be used as manufacturing or other mills, the assessor shall ascertain the value of all machinery and fixtures attached thereto, and include the same in the amount of improvement charged to the owner thereof; and the valuation of such machinery or fixtures shall be thereafter increased or reduced, according to the rules and principle applied to buildings in the twenty-seventh, twenty-eighth and twenty-ninth sections of this chapter.

Assessment of machinery and fixtures; how made.

How increased or diminished.

*District List of Real Estate.*

31. There shall be in the land book for every assessment district separate lists for the magisterial districts included in such district, and in which every tract or lot of land shall, for the purpose of taxation, be entered in the list for the district in which the same, or the greater part thereof, is situated, and the entries in each district list shall be arranged in the alphabetical order of the names of the owners. But this section is subject to the provisions contained in the next section.

Separate lists for each district to be made in land book.

What to be entered therein and how.

*Lands Lying Partly in One County and Partly in Another.*

32. Every tract of land of one thousand acres or less, lying partly in one county or assessment district, and partly in another, shall be entered for taxation on the land books of the county or assessment district where the greater part thereof in value lies; but the entry thereof and payment of taxes thereon, in any county or assessment district where any part thereof is situated, shall, for

Lands lying partly in one county and partly in another, how entered.

Entry and payment of taxes where any part lies, valid.

Value of buildings in such cases; by whom assessed.

How tracts of 1000 acres lying in two or more counties, entered and charged with taxes.

Duty of clerk as to the entry of such lands.

Persons aggrieved; remedy for.

Duty of assessor as to land lying partly in one district and partly in another.

Same where tract lies in two or more districts.

the time during which the same is so entered and paid, be a discharge for the whole of the state, state school, county and district taxes and levies charged and chargeable thereon. When new buildings are erected of the value of one hundred dollars, or more, upon that part of such tract lying out of the county or assessment district in which it is assessed, the assessor on whose books it is entered shall assess the same and add the value thereof as in other cases. And every tract of land of more than one thousand acres lying in two or more counties shall, for the purposes of taxation, be entered and charged with state, state school, county and district taxes in each magisterial district of the several counties in which any part of it is, to the extent, as near as may be, that the same lies in such district. And where any such tract has been so entered and charged under the provisions of the act amending and re-enacting section thirty-two of this chapter, passed March first, one thousand eight hundred and seventy-seven, for the purpose of county and district taxation, the same shall hereafter be charged in each of said magisterial districts with state, state school, county and district taxes at the price per acre now charged on the land books in each of said counties and magisterial districts. And it shall be the duty of the clerk of the county court of the county in which the whole of any such tract is charged with state and state school taxes, under the provisions of the above recited act, to strike such charge from the land books of such county, and to enter and charge the same with state, state school, county and district taxes on the land books in each magisterial district in his county wherein any part of such tract may be. Any person aggrieved by any such entry and charge may apply to the county court for relief, as in other cases.

33. Where land lying partly in one assessment district and partly in another, has been assessed in one of the said districts only, if the owner convey that portion (or any part thereof) lying in the district wherein the same is not assessed, the clerk of the county court shall enter in the proper land book what is so conveyed, and deduct the quantity and valuation of the part so conveyed from that of the entire tract as before entered in the land book.

34. In like manner, where a tract or lot of land lies in two districts, and the owner conveys any portion thereof situated in a district wherein such land was not assessed, the part so conveyed shall be thereafter entered in the proper district, and the quantity and appportionate value thereof be deducted from that of the entire tract or lot as it was before entered.

*Inquiries to be Made of Land Owners and Their Agents.*

35. Each assessor, before the land book of his county is

made out, (and when he takes the list of taxable personal property), shall carry with him the land book of the preceding year, which shall be delivered to him by the clerk of the county court for the purpose, and the entry of lands charged to any person resident, or having an agent, within his district, shall be shown to such person or his agent, who may be required to state on oath whether the same be correctly entered therein; whether any part thereof ought to be transferred to any other person, and if so, to whom, and the nature of the evidence to authorize such transfer; also, to state whether any other land within the district ought to be charged to such resident or non-resident, and to describe the same, as well as to give a description of any land charged to such resident or non-resident which is not correctly entered, and make the proper corrections thereon. And the clerk shall make such use of the information so obtained as he can properly make, consistently with the other provisions of this chapter, in making out the land book of the county. Any such resident or agent failing to comply with such requisition, shall forfeit fifty dollars. Any assessor failing to comply with this section, shall forfeit not less than fifty nor more than one hundred dollars.

Duty of assessor before land book is made out.

What owner or agent must state on oath.

Use to be made of such information by clerk.

Penalty for failure to give information.

Penalty on assessor.

*Form of the Land Book—Tracts of Land—Town Lots.*

36. The clerk of the county court shall make out the land book, including all extensions, in such form as the auditor may prescribe, showing for each magisterial district in one table the tracts of land, and in a separate table the town lots, arranged in the alphabetical order of the names of their owners.

Form of land book; what to contain.

37. In the table of the tracts of land, the clerk shall enter each tract separately, and shall set forth, in as many separate columns as may be necessary, the names of the person who, by himself or his tenant, has the freehold in his possession; the nature of his estate, whether in fee or for life; the number of acres in the tract; the name of the tract, if it has a name; a description of it with reference to the water courses, mountains or other places on or near which it lies; the distance and bearing from the court house; the value of the land per acre, including buildings; the value of the whole tract and buildings; the sum included in the value on account of buildings; the amount of tax assessed for each purpose, in separate columns, on the whole tract, at the legal rate; and from whom, when and how the owner derived the land, where that is known, with a note and explanation of any alteration made, showing why and upon what authority it was made.

Table of tracts of land; what to be entered in.

38. In the table of town lots he shall enter separately each lot, whether improved or unimproved, and shall set

Table of town lots; what to be entered in.



forth in as many separate columns as may be necessary, the name of the person and his estate, as in the table of tracts of land, charging lots leased for a term of years on ground rent, including all improvements thereon, not to the lessee, but to the tenant for life or fee simple owner under whom the lessee holds. The clerk shall set forth in other columns the number of each lot in the town, if the same be numbered, with the name of the town, if not previously placed in the heading or caption of the table, a description, where a person does not own the whole lot, of the part which he owns; the value of the buildings on the lots; the value of the lot including buildings; the amount of tax at the legal rate, and like notice of the source of title, and explanation of alterations, as in the table of tracts of land.

*Assessment to Have Reference to First of January—To Whom Taxes are Chargeable.*

When assessor to begin assessment; what to ascertain.

39. The assessor shall begin annually, on the first day of January, and proceed without delay to ascertain all the persons and property, real and personal, on that day, subject to taxation in his district. The taxes for each year, upon real and personal property, shall be paid by those who are the owners thereof on that day, whether it be assessed to them or to others.

Taxes; by whom paid.

Who deemed owner of real and personal property for purposes of taxation.

40. As to real property the person who, by himself or his tenant, has the freehold in his possession, whether in fee or for life, shall be deemed the owner for the purposes of taxation. A person who has made a mortgage or deed of trust to secure a debt or liability shall be deemed the owner until the mortgagee or trustee takes possession, after which such mortgagee or trustee shall be deemed the owner. Personal property mortgaged or pledged shall, for the purpose of taxation, be deemed the property of the party who has the possession.

*By Whom Property is to be Listed.*

By whom property listed for taxation, and what he must list.

41. Every person of full age and sound mind shall list for taxation the property belonging to him, including the shares held by him in any national or other banks in this or any other state, except where the same is listed under the provisions of section sixty-four of this chapter, and the persons and property under his charge and control, subject to taxation, and furnish to the assessor on his application, all necessary information respecting the same. The property of a minor shall be listed by his guardian, if he has one, and if he has no guardian, by his father, if living; if not, by his mother, if living; and if neither be living, or they be out of this state, by the person having charge of the property. The separate property of a married woman may be listed by herself, or by her husband in her name, and the property of the husband may be

Property of a minor; how listed.

Property of a married woman; how listed.

listed by the wife, if he be out of the state, or in a condition in which he may be unable to list the same; property held in trust, by the trustee, if in possession thereof; otherwise by the party for whose benefit it is held; the personal property of a deceased person by the personal representative; the property of an insane person, or person sentenced to confinement in the penitentiary, by his committee; of a company, whether incorporated or not, whose assets are in the hands of an agent, factor or receiver, by such agent, factor or receiver; otherwise by the president or principal accounting officer, partner or agent, within the state; all money, credits and investments in the possession or under the charge of a receiver or commissioner, by such receiver or commissioner; and money deposited to the credit of any suit, by the clerk of the court in which the suit was brought.

Property in trust; how listed.

Of an insane person or convict.

Of a company.

Of a receiver or commissioner.

42. Every person required by law to list property on behalf of another, shall list it separately from his own, designating the person, company, estate or trust to which it belongs.

Property listed by one person for another.

*Property Exempt From Taxation.*

43. All property, real or personal, described in this section, and to the extent, herein limited, shall be exempt from taxation, that is to say: Property belonging to the United States, or which, by the laws of the United States, is exempt from taxation by, or under state authority; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village or town in this state, and used for public purposes; property used exclusively for divine worship, parsonages, and the household goods and furniture pertaining thereto burial grounds; property belonging to colleges, academies and free schools, if used for educational purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for public and charitable purposes, and not held or leased out for profit, including the property of agricultural associations; property belonging to any public institution for the education of the deaf, dumb or blind, or to any hospital, house of refuge, lunatic or orphan asylum; to the county courts in their corporate capacity; fire engines and implements for the extinguishing of fire, and property used exclusively for the safekeeping thereof; and for the meetings of fire companies; agricultural productions grown directly from the soil, and the products and increase in number of live stock produced within this state during the year preceding the first day of January, and remaining unsold on that day, in the possession of the original owner or his agent; the produce, during the same time, of mines, salt wells and oil wells within this state,

What property exempt from taxation.

Property of the United States.

Property of the state, or of any county, district, city, etc.

Property held by religious societies.

Property used for educational purposes.

Libraries.

Property used for public and charitable purposes.

Property for education of deaf, dumb and blind, etc.

Fire engines.

Agricultural productions and live stock.

The product of salt wells, mines, etc.

Exception. remaining unsold in the hands of the producer or his agent on the first day of January; and all manufactured articles and products of mechanical skill and labor produced in this state during the same time, and remaining unsold on the first day of January, in the hands of the producer or his agent; but no property shall be exempt from taxation, which shall have been purchased or procured for the purpose of evading taxation, whether by temporarily holding the same over the first of January or otherwise, whether the same be in this state or elsewhere.

*Assessment of Capitation Tax—Definition of Certain Words.*

Assessment of capitation tax.

44. Every assessor shall ascertain and list for taxation the white male persons and the colored male persons over the age of twenty-one years, residing in the district, on the first day of January, and not exempt from taxation on account of bodily infirmity, and shall include in the said list all such persons who remove into the said district between the first day of January and the time the assessor's books are delivered to the collecting officer, but persons who pay the capitation tax in one district shall be exonerated from paying the same in any other for that year.

Such tax to be paid but once in same year.

The words "county court" and "persons;" what they include.

45. The words "county court," as used in this chapter, shall be construed to include any tribunal constituted for police and fiscal purposes in lieu of a county court; and the clerk of such tribunal shall perform all the duties required of a clerk of a county court, under sections twenty-nine, sixty-seven and ninety-seven for the purposes of this chapter, and in counties where such tribunals exist such clerk of the county court as is mentioned in section twenty-six of article eight of the constitution as amended, shall perform all the other duties required of a clerk of a county court under this chapter. The word "persons" shall include firms and companies, whether incorporated or not, unless such meaning be inconsistent with the context; and words importing residence shall, as applied to firms and companies, be regarded as designating the place where their principal business is transacted.

Words importing residence as applied to firms, etc., how regarded.

The words "personal property;" how defined.

46. The words "personal property," as used in this chapter, shall include all fixtures attached to land, if not included in the valuation of such land entered in the proper land book; all things of value moveable and tangible, which are the subject of ownership, and money, credits and investments, as defined in the following section:

The words "money," "credits," and "investments" defined.

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

or otherwise, and whether due or not, whether payable in money, property, labor, or services, except only such demands as are included in the term "money" as above defined. "Investments" includes stocks, bonds and securities of the United States, or of this state, or any other state, nation or government, or of any city, town, county, district, railroad or other corporation; and any share, portion, interest or stock in the capital joint fund, assets or profits of any company, whether incorporated or not, or in a steamboat or other vessel, or in any adventure, business or undertaking.

*What Personal Property is to be Listed for Taxation.*

48. All personal property belonging to persons residing in this state, whether such property be in or out of the state, and all personal property in the state, though owned by persons residing out of the state, shall be entered in the personal property book, and be subject to equal and uniform taxation, unless especially exempted by law, but personal property of all classes, except as hereinafter provided, belonging to residents of this state, which is actually and permanently located in another state, and, by the laws of such other state, is subject to taxation, and, is actually taxed in such other state, shall not be entered on the personal property book, or be taxed in this state. All moneys belonging to citizens of this state, and loaned to any person out of the state, shall be subject to taxation, the same as if loaned in this state.

What personal property to be listed for taxation.

What property not to be listed or taxed.

Money loaned out of state to be taxed.

*In What District Personal Property is to be Listed.*

49. Every person required by law to list personal property shall list for taxation, in the assessment district in which he resides, the money, credits and investments subject to taxation belonging to himself, or under his charge or control, whether the same, or the evidence thereof, be in or out of the state; but capital, money and property (except real estate), employed in any trade or business, (other than agriculture), belonging to a company, whether it be incorporated or not, or to an individual, shall be assessed for taxation in the assessment district where the principal office for transacting the financial concerns pertaining to such trade or business is located; or, if there be no such office, then in the district where the operations are carried on. Goods and chattels, and other personal property not assessed as aforesaid, nor exempt from taxation, in the assessment district where the same may be on the first day of January, may be assessed in any district to which it may be removed before the assessor's books are certified; but the assessment and payment of taxes in any county or district in any year, shall exonerate the owner of such property in any other county or district for such year.

Where personal property to be listed.

Payment of taxes in any county for any year, exonerates for that year.

*Valuation of Personal Property.*

How value of credits to be estimated.

50. The value of any credit required to be listed, if the solvency of the party liable therefor be doubtful, or the claim be disputed, shall be estimated at what it is deemed to be probably worth. If it be payable in anything but money, its probable value in money is to be listed. If a solvent credit bear interest which has not been paid, the amount of principal and the interest calculated up to the first day of January in the year for which the assessment is made, shall be listed; but if it do not bear interest, and be not due, the interest for the time it has to run from the said first day of January, until it will be due and payable, may be deducted. Investments shall be rated at their market price, or if there be no known market price, at what is deemed their probable value.

Value of investments; how estimated.

When shareholders not taxed.

51. When the property, stock or capital of any company, whether incorporated or not, is assessed to such company, no person owning any share, portion or interest therein shall be required to list the same, or be assessed with the valuation thereof.

What deducted in listing credits and investments.

52. In listing credits or investments, the party owning the same may deduct therefrom what he owes to others as principal debtor; but not what he may be liable for as surety, endorser or guarantor, unless his principal be insolvent.

Difference as to valuation of property; how settled.

53. If there be a difference between the owner and the assessor in regard to the valuation of any personal property, they may each choose a discreet voter, and their decision, or that of an umpire chosen by them, shall be final as to the matter in controversy.

*List to be Called For by the Assessor.*

When assessor to ascertain value of all personal property.

54. It shall be the duty of the assessor, as soon as possible after the first day of January in each year, to ascertain all personal property subject to taxation in his district, with the value thereof and the name of the person to whom the same ought to be assessed, and to make proper entry thereof in his personal property book.

Must call upon every person for list and valuation.

55. To ascertain the same he shall call upon every person in his district, who is required by law to list any such property, for a list and valuation thereof, and may apply to any officer or agent of a company, or any person interested therein, and shall require every person to answer, under oath, such questions as he may ask him in relation to any matter about which the assessor is authorized to enquire. And the assessor shall require from the officer or person who returns the valuation of the property of any bank, or other company, for assessment, an affidavit that no part of the assets of such bank has been disposed of or converted in any way for the purpose of evading the

Every person to answer under oath.

Affidavit required of person who returns valuation of property of bank, etc.

payment of taxes thereon. An assessor failing to make any call and administer the oath required by this section, shall be guilty of a misdemeanor and fined not less than twenty nor more than one hundred dollars, one half of which shall go to the informer.

Penalty on assessor for failing to make call and administer oath.

56. The assessor shall deliver to every person proper forms for the list and valuation of such personal property as he is required by law to list; and in order to enable him to do so the auditor shall furnish him printed forms for the purpose. If any person be absent from his residence at the time the assessor calls, and there be no person on the premises to act for him, the assessor shall leave said forms for him with some member of the family over the age of sixteen years, or if there be no such person on the premises, shall cause such forms to be delivered to him as soon as possible thereafter, or otherwise procure the proper statements. To the form furnished by the auditor and delivered by the assessor, shall be appended the form of the oath to be taken by the party who is required by law to make out such list.

Assessor to furnish forms when required.

Auditor to supply same.

Forms to be left at persons residence if absent, etc.

Form of oath, to be appended.

57. Every person so called upon shall, within ten days thereafter, deliver to the assessor, or leave for him with the clerk of the county court, a full and correct statement, in the form prescribed and delivered as aforesaid, of all personal property and persons, on account of which he is chargeable with taxes, or which by law he is required to list on behalf of another, with the valuation of the property mentioned in said statement. He shall also take and subscribe an oath appended to or endorsed upon the said statement to the following effect, viz: "I solemnly swear (or affirm) that the above (or within) list contains, to the best of my knowledge and belief, a full and correct statement of all the personal property, money, credits and investments belonging to — whether the same are in or out of the state of West Virginia, which are required by law to be listed for taxation in the — assessment district of — county, and that the valuation affixed to the same, are in my opinion, not below the fair cash value thereof." When the capital employed in any trade or business is returned, the affidavit to the value shall be to the following effect, viz: "I solemnly swear (or affirm) that the above (or within) is a true statement, to the best of my knowledge and belief, of the actual value of the property, money, credits and investments (real estate and property exempt from taxation excepted) employed by — in the trade or business of (merchandising, manufacturing, banking, or as the case may be), whether such property, money, credits and investments are in or out of the state of West Virginia, after deducting what the said — owes to others as principal debtor."

Person called upon, to return list of property within ten days, to the assessor, etc.

What list to contain.

Form of oath to be taken and subscribed.

58. Notwithstanding anything contained in this chapter

Person refusing to value his personal property; value to be fixed by assessor.

Penalty for failure or refusal to list personal property.  
Or to make oath.  
Or to refuse to answer, or to answer untruly, etc.

Duty of assessor where proper list is not furnished.

Penalty on person refusing.

Household and kitchen furniture; how listed.

Assessor may administer oaths.

Value of toll bridges and ferries; how ascertained and assessed.

Value of railroad bridges upon which a separate toll or fare is charged; how ascertained.

to the contrary, any person may refuse to value any personal property, listed by him, if he exhibit the same to the assessor, who shall thereupon assess the value thereof.

59. If any person whose duty it is by law to list any personal property, being called upon by the assessor to do so, refuses to furnish a proper list thereof, or to make such oath as is required by the fifty-seventh section; or if any person refuse to answer, or answer untruly any question lawfully asked by the assessor, or refuse to be examined under oath when lawfully required by the assessor, or fail or refuse to deliver the statement required by the said fifty-seventh section, he shall forfeit not less than ten nor more than one hundred dollars. And if any persons fail to give a true list of all money loaned which should be assessed, he shall, in addition, forfeit five per centum on such sum not so listed, which shall go to the informer.

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

61. Nothing in this chapter contained shall be construed to require any person to furnish, or the assessor to take a list of the several articles of such person's household and kitchen furniture, except those specified in section sixty-eight.

62. The assessor may administer oaths in all matters pertaining to his official business.

#### *Toll Bridges and Ferries.*

63. The assessor shall ascertain the yearly value of all toll bridges and ferries in his district, except such as are by law exempt from taxation. He shall be governed by the actual rent received where such toll bridges are rented or leased out; otherwise he shall make a just estimate of their annual value. For purposes of taxation, the value of a toll bridge or a ferry shall be taken to be ten times its annual value. The assessors shall also ascertain the yearly value of all railroad bridges upon which a separate toll or fare is charged in his district, except such as are by law exempt from taxation. He shall be gov-

erned by the actual rent received where such bridges are rented or leased out; otherwise he shall make a just estimate of their annual value. For purposes of taxation the value of a railroad bridge, upon which a separate toll or fare is charged, shall be taken to be ten times its annual value.

*Incorporated Companies.*

64. He shall ascertain from the proper officers or agents of all incorporated companies in his district (except railroad and foreign insurance, telegraph and express companies), the actual value of the capital employed or invested by them in their trade or business (exclusive of real estate and property exempt by law from taxation), and enter the same in his personal property book. The real estate of such companies shall be assessed and entered in the land book as in other cases. The value of the capital shall be estimated by taking the aggregate value of all the personal property of the company, not exempt from taxation, wherever situated, including their money, credits, and investments, whether in or out of the state, and deducting from the said aggregates what they owe to others as principal debtors. If a company have branches, each branch shall be assessed separately in the district where the principal office for transacting its financial concerns is located, or, if there be no such office, then in the district where its operations are carried on. All property of navigation companies, and other joint stock transportation companies (except railroads), whether real or personal, shall be taxed in the county and district wherein such property is situated, and all locks and dams of navigation companies shall be assessed and taxed as real estate, in the county in which said locks and dams are situated, and it shall be the duty of the assessor of each district to assess such property as hereinbefore directed. Where the capital of a company is assessed as aforesaid, the personal property thereof, which shall not be held to include the locks or dams of a navigation company, shall not be otherwise assessed, nor shall any individual shareholder or partner therein be required to list or be assessed with his share, portion or interest in the said capital.

*Capital Used in Trade or Business by Merchants and Other Individuals or Firms.*

65. The value of the capital used by any individual or firm not incorporated, in any trade or business taxable by law, shall be ascertained in the manner following: The assessor shall ascertain from every such individual or firm, or from some member or agent of such firm, carrying on any trade or business, except agriculture, within his assessment district, the actual value of the capital employed

Capital of incorporated companies, except railroads, etc., how ascertained and assessed.

Real estate of such corporations; how assessed.

Capital used in trade or business by merchants, and other individuals or firms; how ascertained.



by him or them in such trade or business. Such person or firm shall state :

*First*—The actual amount of cash capital invested in such trade or business on the first day of January in each year.

*Second*—The amount and value of all personal property used in connection with such trade or business, otherwise than such as is regularly kept for sale therein.

*Third*—The value of all goods and property kept for sale and remaining unsold on the first day of January, except as provided in the sixty-eighth section of this chapter.

*Fourth*—The amount of all money derived from such trade or business remaining uninvested on that day, whether in or out of the state.

*Fifth*—The amount and value of all debts and claims arising out of such trade or business and remaining unpaid on that day, whether in or out of the state, deducting therefrom any debts created in course of such trade or business which such person or firm owes as principal debtors.

*Sixth*—The amount and value of all investments made by such person or firms, whether in or out of the state, other than those hereinbefore specified. Any such person or firm desiring to commence business after the first day of January, in any year, shall give notice thereof to the assessor of the proper district, accompanied with a sworn statement of the amount of capital invested, or intended to be invested, by such person or firm in such trade or business during the remainder of the year. And it shall be the duty of such assessor, upon the receipt thereof, to assess the amount of such capital with the taxes payable thereon, and certify the same to the sheriff of the county for collection. He shall at the same time transmit to the auditor a duplicate of the said certificate, and upon the receipt thereof, the auditor shall charge the sheriff with the amount of state taxes therein specified. The assessor shall also, on or before the day on which the county levies are laid, certify to the county court of the county the amount of all taxes assessed by him in said last mentioned cases for county and district purposes. When any personal property employed in any trade or business is assessed under the provisions of this section, the owner shall not be required to list the same otherwise, nor shall it be otherwise assessed to him. But all personal, as well as real property, not so assessed to such person or firm, shall be assessed as other like property is required by law to be assessed.

Duty of person or firm commencing business after the first day of January.

Duty of assessor in such cases.

Property so assessed not be otherwise assessed, etc.

Property not so assessed; what then.

Assessor to ascertain from

*Receivers, Commissioners and Clerks of Courts.*

66. He shall ascertain from each person in his district,

who acts under the order of any court as receiver or commissioner, the amount of all money and bonds, or other evidences of debt, under his control, and the style of the suit to which such fund belongs, and from the clerk of such court, the amount deposited by order of such court in any bank or saving institution, to the credit of any suit in such court, and the style of such suit. The cashiers of all banks in this state shall, under oath, furnish to the assessors a list of all moneys held by such banks and the holder thereof, for which certificate of deposits bearing interest have been issued by said banks, and the assessor shall assess the same to the person named in said lists; *Provided*, That said deposits is liable to be assessed under this chapter. *And provided further*, That the sum so deposited has not already been returned by the owner thereof.

commissioners, etc., all money, etc., under their control, etc.

Also, from clerks of courts amount of money deposited, etc.  
Duty of cashier of banks as to deposits.

Assessor to assess same, provided, etc.

*Railroads.*

67. The president, secretary, or principal accounting officer of every railroad company, whether deriving its corporate powers exclusively from this state or not, shall list for taxation at its true value in money, verified by the oath or affirmation of the officers so listing, all the property, money, credits and investments of such company of whatsoever kind, wholly held or used in this state, and also the proportional value of all locomotives and rolling stock passing in and out of this state on railroads crossing the lines thereof, to be ascertained by the proportion which the number of miles run within this state by such locomotives and other rolling stock may bear to the whole number of miles run by such locomotives and other rolling stock over the road belonging to such company, or any connecting line; the proportional value of all such locomotives and other rolling stock, so ascertained, to be assessed as the property of the company owning and using the same, whether it be run upon its own or any other railroad within this state. The proportional value of all locomotives and other rolling stock, and the value of all other personal and movable property, money, credits and investments, shall be added to stationary and fixed property and real estate, and shall be apportioned by such officer to each county through which the road passes, in proportion to the fixed property and real estate belonging to the company in such county; and all the property so listed shall be subjected to and pay the same taxes as other property listed in such county; *Provided*, That the road-bed, bridges, tunnels, depots stations, machine shops, machinery, freight houses, stock yards, rolling stock, and all other necessary appendages and structures connected and used therewith, together with all the real estate which the company is allowed by law to hold, shall be listed as aforesaid, or assessed by the board of commissioners, as hereafter provided, at their actual value in money, without reference

Property of railroad companies; how, what and by whom listed for taxation.

Proportionate value of locomotives, etc., to be added to fixed property, etc.

Such property; how taxed.

Proviso as to road bed, bridges, tunnels, etc.

To be assessed at their actual value in money, etc.

List and *pro rata* valuation to be filed with auditor; when and by whom.  
Duty of auditor as to such list.

If list satisfactory, auditor to assess property, etc. For what purposes.

Commissioners appointed to assess railroad property; when and how.

Qualification, number and residence of commissioners.

Duties of such commissioners.

Statement to be furnished commissioners.

If no statement filed; what then.

Assessment of commissioners; when and to whom returned. Decision final.

Auditor to certify assessment of property; to whom and when.

Duty of court on receiving certificate.

to the amount expended in the construction or purchase thereof. Said officer shall, on or before the last day of December in each year, make out and file with the auditor such list and *pro rata* valuation of the real and personal property, and money, credits and investments of such company, verified as aforesaid. The auditor shall lay said list and valuation before the board of public works as soon as possible after the filing thereof.

And if the same be deemed satisfactory, the said board shall direct the auditor to assess the property of such company for state, state school, county and district purposes, including road taxes, and for free school and corporation purposes in each county, district, independent school district and municipal corporation through which said railroad runs, as hereinafter provided, upon the valuation of its property as contained in said list, and the auditor shall assess the same accordingly; but if the said list and valuation be not satisfactory to the board, or if such railroad company fail to file the list and valuation herein required, the said board shall as soon as possible, after the said first day of January, appoint a board of commissioners, consisting of one discreet and intelligent freeholder from each congressional district of the state, to assess the property of said company as hereinafter required.

It shall be the duty of the said commissioners, as soon as they are informed of their appointment, to convene at some convenient point on the line of railroads to be assessed, and to examine, as far as practicable, all the taxable property of such railroad company hereinbefore mentioned within each of the counties of this state, and to assess the fair value thereof in money for the purpose of taxation, upon the principles hereinbefore stated. If a statement of the property of such company has been filed as herein required, a copy thereof shall be delivered to said commissioners by the auditor to enable them to discharge their duties; but if no such statement has been filed, the said commissioners shall assess the value of such property within each county of this state upon the principles aforesaid, from the best information they can obtain. The assessment so made by the said commissioners shall be returned by them to the auditor on or before the first day of July succeeding their appointment, and their decision shall be final. In case the list and valuation of the property filed with the auditor, as aforesaid, be satisfactory to the board of public works, and in cases where an assessment of the property of such company is made and returned by the board of commissioners as aforesaid, the auditor shall immediately certify to the county court of each county, through which such railroad runs, the value of the property therein of every such company as valued or assessed as aforesaid, and it shall be the duty of such court to apportion such value between such districts

and independent school districts and municipal corporations in their county, through which such road runs, as near as may be according to the value thereof, in each of said districts and municipal corporations. It shall be the duty of the clerk of the county court of every county through which such railroad runs, within thirty days after the county levy of such county is laid, to certify to the auditor the apportionment made by the county court, the amount levied upon each one hundred dollars value of the property therein for county and district purposes. It shall also be the duty of the secretary of the board of education, of every such district and independent school district, and the clerk or recorder of every municipal corporation, within thirty days after a levy is laid therein for free school and municipal purposes, to certify to the auditor the amount levied for such purposes upon each one hundred dollars value of the property therein. And any officer violating the provisions of this section shall be deemed guilty of a misdemeanor and fined not less than one hundred nor more than five hundred dollars. And in case of the failure of the secretary of the board of education in any district, or the clerk of the county court, or the clerk or recorder of and municipal corporations, to return to the auditor on or before the first day of December, in each and every year, such certificate as to the levy aforesaid, then the auditor may obtain the rate of taxation for county and district purposes, and for free school purposes, from the copies of the assessor's books on file at his office. And it shall be the duty of the auditor to charge every railroad company assessed under the provisions of this section, in a book to be kept by him for that purpose, as follows:

Duty of clerk of court to certify to auditor, etc., amount of county levy, etc.

Duty of secretary of board of education.

Duty of clerk or recorder of every municipal corporation.

Failure of clerks or recorder, etc., to certify to auditor such levy; what then.

Taxes to be charged by auditor to company; for what purposes and how.

*First*—With the whole amount of taxes upon its property in each year for state and state school purposes.

*Second*—With the amount payable to each county through which such road runs, for county and district purposes, including road taxes as aforesaid.

*Third*—With the amount payable to each district and independent school district through which said road runs, for free school purposes.

*Fourth*—With the amount payable to each municipal corporation through which the road runs, for municipal purposes.

The auditor shall, on or before the tenth day of December in each year, or as soon thereafter as practicable, make out and transmit, by mail or otherwise, a statement of all taxes and levies so charged to the president, secretary or principal accounting officer of such company. And in case any railroad company is aggrieved by the assessment of its property, or any error shall appear to have been made in making the assessment, the company may file its

Auditor to transmit to company statement of taxes charged against it; when.

If company aggrieved by assessment; what then.

Board of public works to correct errors.

When auditor may correct errors, etc.; when and how.

When application for correction to be made  
When company to pay taxes into treasury.

Deduction to be made for prompt payment.

If not so paid, ten per cent. to be added.  
Duty of auditor when taxes are not paid in time.

Sheriff's duty in such cases.

School taxes; when paid; when collected.

No tax to be compromised or remitted by any authority.

Sheriff to collect regardless of any authority to contrary.

Penalty on member of court etc., voting for compromise, etc., of taxes.

When taxes paid auditor to settle with sheriff for county levies.

petition before the board of public works, at any time before the tenth of January next ensuing, asking for a correction of the same; and the said board shall have power to correct any errors in the valuation of the property of any such company. In case it be claimed by the company that any error has been made, either by the clerk of the county court or the secretaries of the boards of education, in certifying the rate of their levies or the apportionments of the value of the property to the districts, the auditor may, if it be shown by a corrected certificate of the clerk of the county court, or of the secretary of the board of education, as the case may be, or a certified order of the county court making a correct apportionment, that error has been committed, correct the said error; *Provided*, The application be made for such correction at any time before January tenth, in each year. And it shall be the duty of such company so assessed and charged, to pay the whole amount of such taxes and levies upon its property into the treasury of the state, by the twentieth day of January next after the assessment thereof, subject to a deduction of two and a half per centum upon the whole sum, if the same be paid on or before that day. If any such company fail to pay such taxes and levies by the said twentieth day of January, the auditor shall add ten per centum to the amount thereof, to pay the expenses of collecting the same, and shall certify to the sheriff of each county the amount of such taxes and levies assessed within his county; and it shall be the duty of every such sheriff to collect and account for such taxes and levies in the same manner as other taxes and levies are collected and accounted for by him. And when the district and independent school district taxes and levies are collected by him, he shall immediately pay the same to the treasurer of the proper district; *Provided*, That neither the county court of any county, nor any other tribunal therein acting in lieu of a county court, nor any other authority whatever, in any county, nor the council of any corporation, or other authority therein, shall have jurisdiction, power or authority, by compromise or otherwise, to remit any portion of the taxes so assessed on any railroad company; and it shall be the duty of every sheriff to whom any such taxes are certified for collection, to collect the same regardless of any order of the county court or other tribunal, or authority, to the contrary. And any member of a county court, or of the council of a municipal corporation, who shall vote for any such remission or compromise shall be guilty of a misdemeanor and be fined not less than one hundred dollars, nor more than five hundred dollars. When such taxes and levies are paid into the treasury, as herein provided, the auditor shall account to the sheriff of each of the counties to which any sum so paid in for county levies belongs, for the

amount due such county, and may arrange the same with such sheriff in his settlement for the state taxes in such a way as may be most convenient; and the sheriff shall account to the county court of his county for the amount so received by him, in the same manner as for other county levies. *Provided*, That the taxes assessed for the last year of the term of office of a sheriff shall be paid to, or settled with the sheriff who was in office at the time the assessment was made. The amount so paid in for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and paid upon the requisition of the county superintendent of free schools, in like manner as other school moneys are paid. The auditor shall certify to the county court of every such county, on or before the first day of February in each year, the amount with which the sheriff thereof is chargeable on account of the levy upon the property of such company. He shall also certify to the county superintendent of free schools the amount of such levies due to each district and independent school district in his county for free school purposes. The amount so paid in for each municipal corporation shall, as soon as received by the auditor, be paid over to the treasurer of the municipal corporation to which such taxes are due, or to such other officer of the corporation as the council may designate, and the auditor shall report such payment to the council. But the failure of the clerk of any county court, or the secretary of any board of education, to certify to the auditor the levies or apportionment within the time therein prescribed, shall not invalidate or prevent the assessment required by this section, but the auditor shall make the assessment and proceed to collect or certify the same to the sheriff, as soon as practicable, after he shall obtain the information necessary to make such assessment. The right of the state or of any county, or district, or municipal corporation to enforce, by suit or otherwise, the collection of taxes or levies, heretofore assessed or the right to which has heretofore accrued, shall not in any manner be affected or impaired by anything in this chapter contained. All buildings and real estate owned by such company and used or occupied for any purpose not immediately connected with its railroad, or which is rented or occupied for any purpose to or by individuals, shall be assessed with the taxes properly chargeable thereon the same as other property of the like kind belonging to an individual. Each of said commissioners shall be paid out of the treasury of the state three dollars per day for each day he shall be actually and necessarily employed in the discharge of his duties under this section, and five cents per mile for each mile of necessary travel by him in going and returning in the discharge of his du-

Sheriff to account to county court for such taxes.

Proviso as to taxes assessed for last year of term of sheriff.

Amount so paid for school purposes; how disposed of.

Auditor to certify to county court amount of county levy paid to sheriff; when. Also to county superintendent amount of such levies for school purposes.

Taxes paid in for municipal corporations; duty of auditor as to.

Failure of clerk, etc., to certify levies, etc., within time not to invalidate, etc., assessment, etc. But auditor to make assessment and proceed to collect, etc.

Right to enforce collection of taxes, etc., not to be affected or impaired.

Buildings, etc., of company; how assessed, etc.

Compensation of commissioners; how paid.

Vacancies in board; how filled.

No railroad company exempt from taxation.

To apply to all railroads.

ties. Vacancies in the board of commissioners shall be filled, and new boards may be appointed, from time to time, by the board of public works, when necessary so carry into effect the provisions of this section. No such railroad company as is mentioned in this section shall be exempt from taxation, whether the same has been, or may be, created, organized or operated by, under or by virtue of any general or special law or laws, or whether heretofore exempted from taxation or not, but this section shall apply to all railroad companies and corporations without distinction or exception.

*Making up the Personal Property Book.*

Personal property book; how made up and what to contain.

68. From the information obtained as aforesaid, the assessor shall proceed to make up his personal property book as follows: He shall enter therein the names of the owners of personal property, and of other persons liable to capitation tax, alphabetically arranged by districts, and opposite the name of each person, in separate columns, the persons and subjects of taxation with which he is chargeable, that is to say: The number of white male residents over the age of twenty-one, not exempt from taxation on account of bodily infirmity; the number of colored male residents over the age of twenty-one, not exempt from taxation on account of bodily infirmity; the number of horses, mules, asses and jennets, and the value thereof; the number of cattle and the value thereof; the number of sheep and the value thereof; the number of hogs and the value thereof; the value of farming and garden utensils and implements, of agricultural products, and products of animals not exempt from taxation; the number of carriages, carryalls, gigs, buggies, coaches, hacks, wagons, carts, drays and vehicles, and the value thereof, not including those constituting part of the stock of a merchant or manufacturer, or those included as farming utensils; the number of watches and clocks and the value thereof, not including those constituting part of the stock of a merchant or manufacturer; the number of piano-fortes, organs and melodeons, and the value thereof, not including those constituting part of the stock of a merchant or manufacturer; the value of all gold and silver plate and jewelry, not including such articles constituting part of the stock of a merchant or manufacturer, or articles before enumerated; the value of household and kitchen furniture, not including articles before enumerated; the value of the property and capital (excluding real estate and articles exempt from taxation, but including money, credits and investments not exempt from taxation, whether due or not, and whether in or out of the state), employed by any corporation, firm or individual in any trade or business, after deducting debts as allowed by sections fifty-two and sixty-

five of this chapter; all money, and the value of all credits and investments not otherwise assessed nor exempt from taxation, whether due or not, and whether in or out of the state, after deducting debts as aforesaid; the value of toll bridges and ferries; the value of railroad bridges upon which a separate toll or fare is charged; the amount of money, bonds and evidences of debt under control of receivers and commissioners, and amount deposited or invested by order of court to the credit of any suit; value of all personal property not exempt from taxation nor otherwise assessed, including the number of shares of stock held by any person in any bank doing business within this state; and it shall be the duty of any officer of such bank who may be called on for that purpose to furnish the assessor with the names of all non-resident stockholders in such bank, and the amount of stock held by each of them therein; whole amount of tax due from each corporation, firm and individual, exclusive of taxes assessed on land book.

Bank officers to furnish assessor with names of non-resident stockholders, etc.

69. If the assessor discover that any taxes on personal property were omitted in any former year, not exceeding five, he shall enter the same, with interest thereon, in his personal property book.

Taxes omitted in former years to be entered; when.

*Rules Applicable to Both Land and Personal Property Book.*

70. The assessor shall add up the columns of figures on each page of his personal property book, so as to show, at the bottom of each page, the aggregate of each column; and at the end of each district list he shall enter the aggregates from the bottoms of the respective pages pertaining to such district, with reference to the pages from which he has transferred the said aggregates; and shall there add up the same, so as to show the total of each column for the whole district. The totals thus ascertained for the several districts shall be transferred, with proper references, to the end of such books, there added up, so as to show the total of each column for the whole assessment district.

Assessor must add up figures; how and what to show.

Totals ascertained; where transferred; what to show, etc.

71. The assessor shall make a particular report, under oath, to the clerk of the county court of his county, of all his own property subject to taxes in his assessment district, showing the whole amount of taxes chargeable to him therefor. He shall enter his own property, and the taxes chargeable thereon, upon his books in like manner as those of other persons are entered. For failing to perform any duty required of him by this section, he shall forfeit fifty dollars.

Assessor to report, enter and assess his own property, how.

Penalty for failure.

72. In any case in which, in consequence of there being no assessor, or from any other cause, a land book or personal property book was not made out for any assessment

Duty of assessor in cases where no land or personal property



book has been made out for any year since 1865, etc.

district for any year since the twentieth day of June, one thousand eight hundred and sixty-five, or if any such book be not made out for any year hereafter, the assessor for such district shall proceed to make out the proper personal property book for such year, according to the rate of taxation prescribed therefor by law, and the clerk of the county court shall in like manner make out the proper land books for such year. The like proceedings shall be had with and under such book, and for the collection of the taxes therein charged, as if the said books had been duly made during the year to which they relate.

Duty of clerk of court in like cases. Effect of such books and proceedings thereon.

Duty of assessor if interrupted by war, etc.

73. If by reason of war, insurrection, riot, forcible resistance to the execution of the laws, or imminent danger thereof, the assessor can not perform his duties in his district, or any part thereof, he shall nevertheless proceed to make his assessment by reference to the former land and personal property books, or upon the best information he can obtain, and like proceeding may be had for the collection of taxes thus charged, as if such assessment had been regularly made.

Collection of taxes in such cases.

Destruction, etc. of land books, etc.; how re-assessment of lands to be made.

74. If the land book for any district be destroyed or removed, so that the same cannot be used for reference by the assessor of such district, or clerk of the county court, and no reliable copy thereof can be obtained, the auditor, with the consent and approval of the governor, may appoint one or more commissioners to reassess the lands in such district, and with the aid of the clerk of the county court, make up a new land book therefor, and, with the like consent and approval, may allow them such compensation as shall be deemed reasonable.

Compensation.

#### *Proceedings of the Assessor After the Books are Made Out.*

Three copies of personal property book to be made; how disposed of, etc. Duty of clerk of court as to such copies.

75. The assessor shall make three fair copies of his personal property book, and when the same shall be completed, shall present them, together with the lists mentioned in the fifty-seventh section of this chapter, to the clerk of the county court of the county, who shall, with such assistance as may be necessary, carefully and minutely compare the books with the said lists, and examine them in such other way as his information will enable him to do. The assessor shall attend at the office of the clerk, and shall assist at the examination so far as he may be desired by the clerk. The clerk shall point out to the assessor such errors, if any, as in his opinion may exist in any of the books, and every such error shall be corrected; but when the clerk and assessor cannot agree as to the propriety of such correction, the matter shall be submitted to the prosecuting attorney for the county, and they shall conform to his decision. When the examination is completed, and the additions and recapitulations required by law have been made and found to correspond in each of

Assessor to assist clerk.

Clerk to point out errors and correct same.

If clerk and assessor disagree prosecuting attorney to decide. Books; when and how to be certified by clerk.

the said books, the clerk shall append to each of said books an affidavit to the following effect: "I, \_\_\_\_\_, clerk of the county court of \_\_\_\_\_ county, do solemnly swear (or affirm) that I have examined and corrected the foregoing book as required by law, and the additions, proofs and recapitulations having been made as required by law, have been examined by me, and are correct and correspond with the two other property books examined by me."

Form of affidavit of clerk.

76. As soon as such comparison and examination shall have been completed, the assessor shall make and subscribe the following oath, at the foot of each of the three copies of the personal property book: "I, \_\_\_\_\_, assessor of the county of \_\_\_\_\_ (or assessor of \_\_\_\_\_ district, of the county of \_\_\_\_\_, as the case may be), do swear (or affirm) that in making the foregoing assessment, I have, to the best of my knowledge and ability, pursued the laws prescribing the duties of assessors, and that I believe the entries of the list, the additions, proofs and recapitulations in the foregoing book are correct, and the same are alike, in words and figures, to the other two copies of the personal property book made by me for my district in this year, so help me God." And the officer before whom the oath is taken shall annex the following certificate: "Sworn to and subscribed before me, a \_\_\_\_\_, for the county of \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_;" which certificate shall be subscribed by the officer administering the oath.

Oath of assessor to personal property book.

Certificate of officer administering oath.

77. The assessor shall deliver to the clerk of the county court the land book used by him in making his assessments, together with the statements and corrections made therein, or appended thereto, and said clerk shall make

Assessor to deliver land book, etc., to clerk of court.

three fair copies of the land book, and when the same are completed he shall, with such assistance as may be necessary, compare each copy thereof with the land book of the preceding year, and, when necessary, shall examine the records of his office and such transcripts, abstracts or statements from other officers as may be therein or in the possession of the assessor. He shall point out to the assessor, whose duty it shall be to attend at the office of said clerk when required, such errors, if any, as in his opinion exist in any of the books, and correct the same; but if the assessor does not concur as to the propriety of such correction, the matter shall be submitted to the prosecuting attorney for the county, and they shall conform to his decision.

Clerk to make three copies of land book. Further duties of clerk as to such copies.

To point out errors to assessor and correct same.

In case of disagreement who to decide.

78. As soon as such comparison and corrections have been made, the clerk shall make and subscribe the following oath at the foot of each of the land books: "I, \_\_\_\_\_, clerk of the county court of \_\_\_\_\_, do swear (or affirm) that in making out the foregoing land books I have to the

Oath of clerk to land book; when and how made.

best of my knowledge and ability pursued the law prescribing the duties of clerks of the county courts, and that I believe the entries, additions and recapitulations are correct, and like the two other copies of the land book made by me for my county in the present year;" and the officer before whom the oath is taken shall annex thereto the following certificate: "Sworn and subscribed before me, \_\_\_\_\_, a \_\_\_\_\_ for the county of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_;" which certificate shall be subscribed by the officer making it. The assessor shall also make and append to said land book an affidavit that he has performed all the duties required of him by this chapter in relation to the land books, the assessment of real estate and of buildings and improvements thereon.

Certificate of officer administering it.

Affidavit of assessor to land book.

Assessor to deliver to clerk of circuit court; one copy of personal property book, etc.; when.

Duty of clerk as to such copy.

Such copy and land book to serve for laying county levy.

Assessor to deliver, also, copy of personal property book to sheriff, when. Such copy to guide sheriff in collection of taxes.

Remaining copies to be transmitted to auditor; by whom and when Certificate to be appended thereto.

Such copies to be guide for auditor in settling with sheriff. To be admitted as evidence, etc.

Assessor and clerk may require of officer receipt for copies.

Duty of assessor as to original of personal

79. After the land book and book of personal property have been corrected and certified as required by sections seventy-five, seventy-six, seventy-seven and seventy-eight of this chapter, the assessor shall on or before the first day of July next ensuing, deliver one copy of the personal property book, together with the list mentioned in the fifty-seventh section of this chapter, to the clerk of the county court of the county, to be by him carefully preserved among the records of his office, free for the inspection of any person, and a copy of the same or any portion thereof may be had at the charge of the person desiring it; and such copy of the personal property book and the land book made out by the clerk of the county court shall also serve for laying the county levy.

80. The assessor shall deliver another copy of the personal property book to the sheriff or collector of the county, on or before the fifteenth day of August, and such copy shall be his guide in the collection of taxes therein assessed.

81. The remaining copies of each of said books shall be transmitted by the assessor and clerk of the county court respectively, to the auditor, on or before the first day of September, with a certificate affixed thereto or written thereon, stating that he has delivered duplicates thereof to the sheriff or collector of the county, and the time of such delivery. The said copies shall be a guide to the auditor in auditing the accounts of such sheriff or collector; and shall be admitted as evidence in any proceedings against such sheriff or collector, in relation to the taxes entered therein.

82. The assessor and clerk may require of the officer to whom the said copies are delivered or transmitted an acknowledgment in writing of the receipt thereof.

83. The original of the personal property book made out by him shall be retained by the assessor so long as he

continues in office, and then be delivered to his successor, property book.  
as provided in the sixth section of this chapter.

*Penalty on Clerk or Assessor for Failure to Perform His Duty.*

84. If any clerk or assessor knowingly make a false entry, addition or recapitulation in the personal property book, or in any copy of either, he shall, for every such offense, forfeit three hundred dollars. Penalty on clerk or assessor for false entry, addition, etc., in personal property book.

85. If any clerk or assessor fail to perform any duty required of him by the seventy-fifth, the seventy-sixth, the seventy-seventh or the seventy-eighth sections of this chapter, he shall forfeit for every such failure not less than fifty nor more than three hundred dollars. Penalty for failure to perform certain other duties.

86. If any clerk or assessor fail to perform any duty required of him by law, and there be no other penalty imposed by law for such failure, he shall forfeit for every such failure not less than ten nor more than fifty dollars. Penalty for failure to perform any other duty required by law and there be no other penalty.

*Compensation of Assessors and Clerks.*

87. Each assessor shall be entitled to the following fees: Fees of assessor and how paid.  
For making an entry or assessment of any parcel of land under the tenth section, one dollar for every such parcel, to be paid by the owner; for making an assessment under the twenty-fifth section, one dollar, for which the parties among whom the land is divided shall be jointly and severally liable; and where the assessor's decision is confirmed by the county court, the party complaining shall pay the costs incurred by the application to the said court. Fees of clerk of court and how paid.  
The clerk of the county court shall be allowed the following fees: For making an entry transferring lands before charged to any one person unto another, and striking the same from the land books in the name of the grantor in the deed or any former owner seventy-five cents, which shall be charged to the person to whom the transfer is made, and be a compensation for all land in the assessor's district conveyed or passing to such person, by the same deed, descent or devise, and the ticket made out for such fee shall state that the same is for the transfer and correcting the lands books; for entry of a grant according to the twenty-second section, a fee of twenty cents from the grantee, and fifty cents from him to the assessor for assessing the land so granted.

88. The assessors and clerks may make out tickets for their fees and place them in the hands of the sheriff or other officers, to be collected and accounted for in the same manner that the fees of the clerk of a circuit court are collected and accounted for. The assessors and clerks shall be subject to the same penalties as clerks of circuit courts for issuing fee bills wrongfully. Clerk and assessor to make out the tickets for fees. Who to collect, etc. Issuing fee bills wrongfully; penalty for.

Allowance to assessor to be paid out of county treasury.

Commission allowed on state and state school taxes assessed on personal property.

To be in full for all services, etc.

Provision as to assessors in Ohio county.

Allowance to clerk of county court payable out of county treasury.

Auditor to pay postage accounts etc., of assessors; when.

When county court may refuse or reduce compensation of clerk and assessor.

When and how compensation of assessors may be apportioned where services performed in part by different assessors, etc.

When assessor to fill vacancy entitled to whole compensation.

80. Every assessor shall be entitled to receive, in consideration of his services, to be paid out of the county treasury, as other claims against the county are paid, such reasonable compensation as the county court shall determine, not less than two hundred nor more than three hundred and fifty dollars per annum, and in addition thereto he shall be allowed a commission of three *per centum* on the amount of state and state school taxes assessed by him on the personal property of his county or assessment district. Which allowance shall be in addition to the fees allowed in section eighty-seven of this chapter, and shall be in full for all services performed under the provisions of this chapter, including the extension of the levies for state, free school, county and district purposes. There may be allowed in Ohio county, to be paid out of the county treasury, to the assessors of such county, such further sums respectively as to the board of commissioners of said county may seem just: *Provided*, That the whole amount allowed to the assessor of the district in which the greater part of the city of Wheeling is situated, shall not exceed thirteen hundred dollars, and the whole amount allowed to the other assessor in such county shall not exceed six hundred dollars. The clerk of the county court shall be entitled to receive such reasonable compensation for services rendered under this chapter, other than for making out the land books, as the county court may allow, to be paid from the county treasury.

90. The auditor shall pay out of his contingent fund the several clerks and assessors for all postage and express charges advanced by them in the transmission of their books or correspondence touching the duties of their offices, the accounts for which shall be verified by their affidavits.

91. Unless the clerk and assessor exhibit to the county court the receipts of the proper officers, showing that the copies of the land book and personal property book have been delivered within the time prescribed in this chapter, or show to the satisfaction of the court that any delay which may have occurred was unavoidable, the court may refuse him any compensation, or may reduce his commission or allowance, as to them may seem right and proper.

92. When one assessor begins in any year, and the office becomes vacant before the services to be rendered by him in that year are fully performed, in consequence whereof another is elected or appointed, who completes the same, the sum to be paid for the whole service of the assessors in that year shall be apportioned by the county court between the assessor last mentioned and the former, according to the services by them respectively performed. If, however, in consequence of any failure to deliver up books or papers which the former had, the latter has to

proceed to take the list of taxable property, and do all that he would have to do in case there had been no previous assessor that year, then he shall receive all the compensation for the said year.

*Relief Against Taxes Erroneously Assessed, Etc.*

93. After the clerk and assessor shall have verified and delivered the copies of the land book or the book of personal property, no alteration shall be made by them; or either of them, in either, affecting the taxes of that year.

When no alteration be made in land and personal property book.

94. Any person aggrieved by any entry in either book, or with any assessment of a license tax, may, within one year after the verification, where the entry is in either book, and within six months from the assessment of said license tax, apply for relief to the county court of the county wherein the assessor gave bond and qualified. But he shall, before any such application is heard, give reasonable notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interest of the state, county and district in the matter.

How party aggrieved by entry on books or assessment on license tax may obtain redress.

Notice in such cases.  
Duty of prosecuting attorney.

95. If the county court be satisfied that the applicant is erroneously charged on such book, or so assessed with any taxes on licenses, it shall certify the facts upon which it grants relief, and shall, subject to the provision of section eight of this chapter, order that he be exonerated from the payment of so much as is erroneously charged, if not already paid, and, if paid, that it be refunded to him.

Duty of county court on such applications for relief.

Order to be made.

96. Such order, delivered to the sheriff or other collecting officer, shall restrain him from collecting so much as is erroneously charged, and if the same has already been collected, shall compel him to refund the money, if such officer has not already paid it into the treasury, and in either case, when endorsed by the person exonerated, it shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement with the auditor.

To whom such order delivered.  
Its effect.

Such order a voucher for sheriff, etc.

97. If what was erroneously charged has been paid into the state treasury, the order of the county court, attested by its clerk, shall entitle the claimant to a warrant on the state treasury for the amount thereof. *Provided*, That application for the same be made to the auditor within one year after the date of said order.

If money erroneously charged has been paid into state treasury; how recovered. When application must be made.

*The Grand Jury to Inquire Into Violations of the Revenue Laws.*

98. It shall be the duty of every assessor to furnish the prosecuting attorney for the county a list of every violation of the revenue laws, committed by any person other than himself, showing the nature and character of each violation. And it shall be the duty of such attorney to deliver such list to the foreman of the grand jury, who

Assessor to furnish list of violations of revenue laws; to whom.

Prosecuting attorney to deliver list to

Foreman of grand jury.  
Duty of foreman as to such list. Clerk to file and preserve same. Duty of circuit court as to violations of revenue laws by assessors.  
Definition of certain words.

shall treat it as having been especially delivered in charge to the grand jury. The said foreman, after the grand jury is discharged, shall return said list to the clerk of the court, to be preserved and filed in his office. It shall also be the duty of the circuit court to specially charge the grand juries to inquire into all the violations of the revenue laws by the assessor.

99. The words "tax," "taxes," "taxable," and "taxation," in this act, shall be deemed to include county, district and municipal corporation levies in all cases not inconsistent with the context.

Taxes for county, city, etc., purposes; how levied.  
Not to apply to certain cities.

100. Taxes for county, district, city, town and village purposes shall be levied only upon the values of property ascertained for state purposes. *Provided*, That this section shall not apply to taxes for city purposes in cities of more than ten thousand inhabitants.

#### *Acts Repealed.*

Acts repealed.

2. All acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

### CHAPTER XIII.

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

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia:

Code amended.

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

#### CHAPTER XXX.

##### COLLECTION OF TAXES.

##### *By Whom the Taxes are to be Collected.*

Taxes; by whom collected.

1. The taxes assessed in each county shall be collected by the sheriff thereof, with the following exceptions:

Auditor may appoint collector when necessary.

2. The auditor, with the approval of the governor, may appoint a collector in any county, when necessary to collect taxes therein.

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

Time allowed collector to collect and account.

Bond to be given.

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

Delinquent taxes: when to be collected by constable, etc.

*When and How Taxes are to be Collected.*

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

When collection of taxes must begin.

6. It shall be the duty of the sheriff or collector to give notice, by posting at the places of voting in each district and at not less than six other public places in the district, for at least twenty days before the time appointed, that he will attend at each voting place on two several days, to be fixed by him, between the first day of October and the first day of November following, for the purpose of receiving taxes due by the people residing or paying taxes in said district, and that he will make a discount of two and a half per centum to all such persons as shall pay all their taxes on or before the last named day, and not otherwise; which discount shall be made on the whole amount of taxes and levies of every kind so collected by said sheriff or collector, and shall be deducted from his commissions; *Provided*, Said discount of two and one-half per cent. shall not be deducted from the commission of said sheriff or collector on state school, district school and building taxes. Such notice shall be posted on or before the first day of September in each year; and any sheriff or collector failing to post the same as herein required, shall forfeit one hundred dollars for every such failure. The county court of any county or the tribunal established in lieu of such court for police and fiscal purposes, may order that the notice hereinbefore required shall also be given by the sheriff or collector by advertising the same. After any such order is made, and until it is set aside, the sheriff or collector shall, besides posting as hereinbefore required, advertise such notice once a week for three weeks, next preceding the first day of October, in every year, in one daily newspaper in each language, in which a daily newspaper may be published in such county, and also in a weekly newspaper published therein, if there be one, and for each failure to so advertise, the sheriff or collector shall forfeit one hundred dollars.

Notice must be given of times and places at which taxes will be received, etc.

Discount to be allowed.

Exception as to school taxes.

When notice to be posted.

Penalty for failure to post notice.

Court may order publication of notice in newspapers.

Penalty for failure of sheriff to advertise notice.



*Of Distraining for Taxes.*

When taxes may be distrained for.

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

When distress may be made in county other than that in which land is assessed.

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

Goods and chattels of person in possession may be distrained in certain cases, and to what extent.

9. The goods and chattels of the tenant or other persons in possession, claiming under the party or estate assessed with taxes on land, for the year or years in which he is so in possession, may be distrained if found on the premises. But when taxes are assessed wholly to one person on a track or lot of land, part of which has become the freehold of another by a title recorded before the commencement of the year for which such taxes are assessed, the property belonging to the owner of that part shall not be distrained for more than a due proportion of said taxes.

Right to distrain not affected by deed of trust, etc.

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

When right to distrain expires. Exception as to delinquent taxes.

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

Within what time sheriff may distrain after his term expires.

*Collection of Taxes Out of Money or Property in the Hands of Another.*

Collection of taxes out of money or property in hands of another. Payment, if made, a good set-off.

12. Any person indebted to, or having in his hands estate of the party assessed with taxes, may be applied to by the sheriff or collector for payment thereof out of such debt or estate, and a payment by such person of the said taxes, either in whole or in part, shall entitle him to a charge or credit for so much on account of such debt or estate

against the party so assessed. If the person applied to do not pay so much as it may seem to the officer ought to be recovered on account of the debt or estate in his hands, the officer shall forthwith give to such person a written or printed notice not to pay or deliver to the party so assessed, any debt he owes or estate belonging to such party, and immediately thereafter such officer shall, if the sum due for such taxes do not exceed fifty dollars, procure from a justice a summons directing such person to appear before some justice having jurisdiction at such time and place as may seem reasonable; and if the sum due exceed fifty and be not over three hundred dollars, he shall procure from a justice or the clerk of the circuit court of the county, a summons directing such person to appear before the justice, as aforesaid, or before the court on the first day of the next term thereof; and if the sum due exceed three hundred dollars, he shall procure such summons from the clerk of the circuit court returnable as aforesaid. And from the time of the service of any such notice, the taxes shall constitute a lien on the debt so due from such person, or on the said estate in his hands.

How payment may be compelled.

Proceedings in such cases.

Taxes a lien from service of notice.

13. If such summons be returned executed, and the person so summoned do not appear, judgment shall be entered against him for the sum due for such taxes, and the costs of the proceeding.

If party summoned fail to appear, judgment given against him, etc.

14. If the person so summoned appear, he shall be interrogated on oath, and such evidence may be heard or shall be adduced, and judgment rendered as upon the whole case may seem proper.

Proceedings and judgment where party appears.

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

Tenant paying taxes to have credit therefor on rent.

Exception.

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

Tax paid by a fiduciary to be refunded out of estate.

17. The sheriff or collector shall deliver to any person paying tax a written or printed receipt therefor, specifying the number of capitations; the total value of personal property; the number of acres of land, and the number of town lots, with the valuation of each tract or lot separately charged to such person, his landlord or vendor. Such receipts shall state distinctly the amount of tax paid for

Receipt of sheriff or collector for taxes paid. What to specify.

state, state school and county purposes, and for any other purposes for which the same has been levied; and the whole amount so paid shall be accurately footed up, and set down in the said receipt. Every such receipt shall be signed by the officer giving it, with his own proper hand.

*List of Uncollected Taxes to be Returned.*

**List of uncollected taxes.** 18. The sheriff or collector, after ascertaining which of the taxes assessed in his county cannot be collected, shall on or before the first Monday in June next succeeding the year for which such taxes were assessed, make out alphabetical lists, by districts, of three classes:

**When made out and returned.**

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

**Form of return.** “List of property on the land book for the county of \_\_\_\_\_ improperly placed thereon, or not ascertainable, for the year\_\_\_\_\_.

Name of Person Charged with Tax.	Estate held.	Quantity of Land.	Description and location of land.	Distance and bearing from court house.	State tax for State purposes.	State tax for school purposes.	County tax for all purposes.	Why returned delinquent.
..... District								

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

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

**Persons and** *Thirdly*—A list of such taxes so assessed other than on

real estate, as he is unable to collect, which shall be in the following form: property delinquent.

“List of persons and property, other than real estate, in the county of \_\_\_\_\_, delinquent for the non-payment of taxes thereon for the year \_\_\_\_\_. Form of return.”

Name of Person Charged with Taxes.	No. of capitation.	Total value of personal property charged.	State tax for State purposes unpaid.	State tax for school purposes unpaid.	County tax unpaid.	Why returned delinquent.
..... District.						

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

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

20. A copy of each of said lists shall be posted at the front door of the court house of the county, at least two weeks before the session of the county court at which they are presented for examination. Copy of lists to be posted. Where and for what time.

21. The sheriff or collector of every county, shall, at or before the session of said court at which the county levy is to be laid, present to said court three lists, mentioned in the eighteenth section of this chapter for examination. The court having become satisfied of the correctness of said lists, or having corrected them if erroneous, shall direct their clerk to certify copies thereof, with the amount of state and state school taxes, to the auditor, and the clerk of the county court shall, in making his next land book, leave off all the tract mentioned in said list. The original list shall be preserved by the clerk in his office, and the list of real estate delinquent shall be recorded by the clerk in a well bound book, to be kept by him for the purpose. After the said copies are so certified, the sheriff List to be presented to the county court. Duty of court in relation thereto. Duty of clerk in relation thereto. Delinquent list; how preserved and recorded. Sheriff or collector not to

receiv  
returne  
delinquent.  
Exception.

Personall  
delinquent may  
be plac'd in the  
hands of an  
officer for  
collection.

State tax not to  
be received by  
auditor unless  
other taxes have  
been paid.

Duty of clerk of  
county court as  
to copies to be  
sent to auditor.

When sheriff  
entitled to  
credit therefor.

When and how  
copy of third  
list may be  
plac'd in hands  
of officer for  
collection.

Compensation of  
officer for such  
collection.

Penalty on  
officer for  
false return.

or collector shall not receive any of the taxes mentioned in said list, except as provided in section six of chapter thirty-one, but they may be paid into the treasury of the state at any time before the lands returned delinquent are sold for the non-payment thereof, or in the case of personal property, at any time before the list is placed in the hands of an officer for collection, as provided in the twenty-third section of this chapter. But no person shall be permitted to pay the state tax mentioned in any such list into the treasury, unless he, at the same time, exhibit satisfactory proof to the auditor that he has paid all the taxes and levies assessed and made upon such real estate in the several counties, districts and independent school districts in which the same was assessed.

22. The copies directed by the preceding section, to be certified to the auditor, shall be sealed up by the clerk of the court in an envelope, addressed to the auditor, and delivered to the sheriff or collector by whom the lists were presented. The auditor shall credit the sheriff or collector with the amount of taxes mentioned in said copies, if the same be presented at his office before the first day of September in the year next succeeding that for which said taxes were assessed.

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

24. Any officer who shall return in any such list real estate, persons, or property as delinquent for the non-payment of taxes, when such taxes shall have been actually received by him, or whose part of such taxes have been paid, without giving the proper credits, shall forfeit, if the return was by design, ten times the amount of the taxes so actually received, and if the return was by mistake, twice the amount. And any such officer who shall return in such list real estate, persons, or property as delinquent, when he had either found, or might have found with reasonable diligence, sufficient property within his county liable to distress for the taxes for which such

real estate, persons or property are returned delinquent, shall forfeit to the party injured a sum equal to five times the amount of said taxes.

*When Sheriff to Pay into the Treasury; Proceedings in Case of Failure to Pay.*

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

When taxes must be paid into the treasury.

Additional time allowed in certain cases.

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

Remedy when officer fails to pay.

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

Interest to be charged in case of such failure.

*Sheriff's Compensation.*

28. Every sheriff or collector shall be allowed a commission upon the amount of state taxes with which he is chargeable, if he pay the same into the treasury within the time required by law, as follows: Upon any sum not exceeding ten thousand dollars, seven and a half per cent.; upon any sum exceeding ten thousand and not exceeding twenty thousand dollars, five per cent.; upon any sum exceeding twenty thousand and not exceeding thirty thousand dollars, four per cent.; and upon all sums exceeding thirty thousand dollars, three per cent. Upon all taxes so chargeable and not paid into the treasury within the time required by law, he shall only be allowed a commission of two and a half per cent. But no commission shall be allowed upon the taxes returned delinquent, except when such real estate is sold for nonpayment of such taxes. If the sheriff or collector pay any taxes into the treasury before he has collected the same, he shall nevertheless have the same remedy for the collection thereof

Commissions of sheriffs and collectors for prompt payment.

Same where payment not made within time required by law. No commission to be allowed on delinquent taxes. Remedy of sheriff paying taxes into treasury before collection thereof.

by distress or otherwise, as if the same had not been paid to the state, except that he shall not have a lien on the real estate on which said taxes were assessed therefor.

Approved March 15, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XIV.

AN ACT to revive, amend and re-enact chapter 43, of the code of West Virginia, concerning roads, bridges and landings.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia:

Code revived  
and amended.

1. That chapter 43 of the code of West Virginia be, and the same is hereby revived, amended and re-enacted so as to read as follows:

### CHAPTER XLIII.

OF ROADS, BRIDGES, LANDINGS, WHARVES, ETC.

#### *Of Road Precincts.*

Road precincts:  
how constituted.

1. The road precincts as now established in the several counties in this state, shall remain until changed by the county court.

County court  
may divide  
districts into  
road precincts.  
May change the  
boundaries, etc.  
Precincts to be  
numbered  
consecutively.  
Boundary lines  
to be recorded.

2. The county court of a county may divide the several districts therein into convenient road precincts, and may from time to time change the boundaries of such precincts, and increase or diminish the number thereof. The precincts in each district shall be distinguished by consecutive numbers, and the boundary lines thereof shall be recorded in the proceedings of the court.

Not to include  
any incor-  
porated village,  
town or city.

3. No road precinct shall include any part of an incorporated village, town or city, which by the provisions of its charter keeps its own roads, streets and alleys in order, notwithstanding anything to the contrary contained in the preceding sections.

#### *Appointment of Surveyors of Roads*

Surveyors of  
roads; when and  
how appointed.

4. The county court of every county, shall in the year 1881, and in every second year thereafter, appoint a surveyor of roads for each precinct of their respective counties, who is a resident of the precinct for which he may be

appointed, and whose term of office shall be for two years from the first of January succeeding his appointment. Vacancies in said office shall be filled by the county court, from time to time as they may occur, and shall be for the unexpired term; every such surveyor shall give bond, with security in such penalty as the court shall prescribe, conditioned that he will pay and account for all moneys which shall come to his hands by virtue of his office, according to law.

Term of office.

Vacancies; how filled.

To give bond.

*Penalty for Refusal to Serve.*

5. If any person appointed by such surveyor refuse to serve, he shall forfeit twenty dollars, but the county court of the county may for good cause remit such forfeiture; and a person who has served one term, may refuse to serve the next term, without being subject to any penalty therefor.

Penalty for failure to serve when appointed; Court may remit penalty for good cause.

*Duties of Clerk and Sheriff, etc.*

6. The clerk of every county court shall, without delay, make out and deliver to the sheriff of his county, a certified copy of every order appointing a surveyor of a road, and it shall be the duty of such sheriff to deliver the same to the person so appointed before the commencement of his term of office, or as soon thereafter as possible, and upon the failure of either of said officers to comply with the provisions of this section, he shall be fined ten dollars.

Clerk to make certified copy of announcement.

Sheriff to deliver same.

Penalty as to Clerk and Sheriff.

*Certain Duties of Surveyors of Roads.*

7. Every surveyor of roads shall perform the following duties within his road precinct, that is to say: He shall superintend the county roads and bridges, cause the same to be put in good order and repair, of the proper width, well drained and to be cleared and kept clear of rocks, falling timber, land slides, carcasses of dead animals and other obstructions. He shall cause to be opened and made, all new county roads and alterations of former roads ordered by proper authority. He shall cause to be placed and kept at the forks or crossing of every county road a guide board, on which shall be stated, in plain letters, the most noted place to which each road leads. Across every stream, where it is necessary and practicable, he shall cause to be placed and kept a sufficient bridge, bench or log, for the accommodation of foot passengers. Where any more important bridge is necessary, and it is practicable for him to have it made with the money and labor which is at his disposal, by virtue of his office, he shall cause it to be made safe and convenient, and at least twelve feet broad, with a railing not less than three feet high on each side. He shall notify or cause to be notified, all persons who are liable by law to work on the roads, of the time and place at which they are required to attend for that purpose, and

Duties of surveyor of roads.

To superintend repair of roads.

Open new roads.

Guide boards.

Foot bridges.

Notify persons liable to work on roads.



Duty as to county roads suddenly obstructed.

shall direct and superintend their work. When a county road is suddenly obstructed at any time of the year by the falling of rock or timber, land slides or other cause, or a county bridge is from any cause rendered unsafe, he shall immediately order out such number of persons liable to work on the roads as may be necessary (notwithstanding such persons may have performed their full number of days' work on the roads), and without avoidable delay cause such obstruction to be removed from the road, or the bridge to be made safe.

Account to be kept.

8. Every surveyor of roads shall keep an exact account of the number of days' work done on the road in his precinct by each person liable to work thereon, and shall, if required, make report thereof to the county court at any time during the year.

Make report to county court.

Annual report; when made and what to contain.

9. He shall also report annually to the county court at the session thereof, at which the county levy is laid, the condition of the roads and bridges in his precinct, the amount of money and labor expended thereon during the year ending on that day, and the improvements, alterations and new works finished during the year or in progress; and shall recommend in such report any improvements, alterations, or new works which he thinks ought to be made, stating the probable cost thereof.

Books and papers to be delivered to successor.

Penalty for failure.

To pay over all money to successor.

Penalty for failing to do so.

10. Every surveyor of roads shall deliver the books, accounts and papers pertaining to his office, to his successor when he shall demand the same. If he fail to do so he shall forfeit not less than thirty dollars. And every such surveyor now in office shall at the expiration of his term of office, pay over to his successor all the money in his hands by virtue of his office, taking duplicate receipts therefor; one of which shall be filed with the clerk of the county court. If he fail to do so he shall be liable for double the amount in his hands, to be recovered in the name of the county before any justice or court having jurisdiction.

Penalty for neglect of duty.

When exempt from penalty.

11. If a surveyor of roads fail to perform any duty required by law, and there is no other penalty prescribed therefor, he shall be liable to indictment or presentment and upon conviction thereof, shall be fined not less than five nor more than thirty dollars for every such offense. But he shall not be liable for a failure to perform any duty specified in the seventh section, if it appear that the money and labor at his disposal by virtue of his office were insufficient to enable him to do so.

*Who to Work on Roads—Powers of County Courts—Penalties.*

Who to work on public roads. Notice to be given when work to be done.

12. Every male person not under twenty-one nor over fifty years of age, who resides in any road precinct, and is not a pauper, having had at least three days notice,

shall, between the first day of April and the first day of November in each year, attend in person or by a sufficient substitute, with proper tools, and work on the county road in such precinct, under the direction of the surveyor thereof, at such place, and on such days during the said period, as the said surveyor may appoint, at least two days, if that number be necessary; and the county court of every county in which the said two days work shall be insufficient to open, construct and keep in good repair the roads and bridges thereof, shall, at a session of said court held prior to the first day of April in each year, prescribe, by order of court, the manner in which the same shall be done, after expending thereon the two days' work aforesaid, whether entirely by tax on property, entirely by labor, or partly by tax and partly by labor; and it shall prescribe, provide for, and lay a sufficient amount of tax or labor, or both, as the case may be, to open, construct and keep in good repair the roads and bridges in their county during each year. *Provided*, That not more than four days' work by any person shall be required in any year, and, if said four days' work are not sufficient, with or without the tax imposed, to put and keep the roads and bridges in any county in good repair, the court shall levy a sufficient tax for the purpose, as aforesaid. Every person required by the county court, under the provisions of this section, to work on roads, shall perform such additional number of days' work thereon as may be prescribed by such order, not exceeding, however, two days; but any person required to perform labor under the provisions of this section may commute therefor by paying to the surveyor seventy-five cents per day for every days' work so required of him. The county court shall have power to transfer and require the surveyor and hands of any road precinct, to work upon the roads of another precinct in the same district, when it shall appear that such precinct has a greater amount of road labor to be performed, and less hands to perform such labor, than the precincts from which such transfer is to be made. And any surveyor or hands failing to work on the roads of the precinct to which they may be, by order of the court transferred, shall be subject to the same penalties as if they had failed to work on the roads of their own precinct when lawfully required to do so.

To attend with proper tools.

At time and place appointed by surveyor. Work two days. Duty of county court.

May prescribe additional labor or tax.

Not more than four days' labor required in any year

Commutation for labor.

County court may transfer hands from one road precinct to another.

Penalty for failure to obey order of county court.

13. Every person failing to attend and perform the labor required by the next preceding section, or to pay the commutation mentioned in said section, or if he attend at the day and place required and shall refuse to obey any lawful order or direction of the surveyor, or spend the time in idleness or inattention to the work assigned him, shall be proceeded against as follows: The surveyor of roads for his precinct shall, in a book to be kept by him for that purpose, assess him with a road tax of one dollar

Penalty for failure to perform labor, etc.

Persons guilty; how proceeded against.

To be assessed \$1 for each day's delinquency.

Constable to collect from delinquents.

If not paid on demand, to be collected by distraint in the same manner as taxes.

Persons improperly charged; how released.

Surveyor must have notice of application.

Application to be heard and determined without costs.

Penalty on constable for making false return. Moneys received from delinquents to constitute a road fund.

Commission for collecting.

Residence of persons liable to work on roads; how determined

Notice to work on roads; how given and by whom.

for each day he shall fail as aforesaid, to work as required and for which he shall not have paid the commutation aforesaid, in form or effect, as follows; "A — B — to road precinct No. — in the district of —, in the county of —, Dr., To road tax for failing to perform — days work on road at one dollar per day, \$ —;" and shall place a duplicate of such assessment in the hands of a constable in the county for collection, and take his receipt therefor. If said tax be paid to the constable he shall write thereon the words "received payment" and sign the same in his official character and deliver it to the person charged with such tax or other person paying the same. But if said tax be not paid on demand, the constable may collect the sum by distraint or otherwise in the same manner as a sheriff may distrain for and collect county and state taxes; and said constable shall have and may exercise all the powers of a sheriff in such cases. Any person claiming to be improperly assessed with such tax may apply to the county court at its first or second session after the same comes to his knowledge, but not afterwards, to have it corrected; but he must give to the surveyor of roads of the precinct at least five day's notice in writing, of such application. If the court upon the hearing of such application, be satisfied that the applicant has been improperly assessed with such tax or any part thereof, it shall correct the assessment accordingly; otherwise it shall affirm the same. The application shall be heard and determined without costs. If the constable be unable to collect such tax, in whole or in part, after the use of due diligence, he shall return said duplicate to the surveyor of roads from whom he received it, or to his successor in office, with an endorsement thereon, showing whether the whole, or any part thereof remains unpaid, and for what reason. And any constable who shall falsely return such tax uncollected, in whole or in part, shall be fined ten dollars. All moneys received by a surveyor of roads or constable under the provisions of this section shall constitute a road fund and be applied by the surveyor to the construction, improvement and repair of the roads and bridges, in the precinct to which it belongs. The constable shall receive the same commissions on any money collected by him under this section as for money collected by him on execution, and shall pay the residue of such money, after deducting his commissions, to the surveyor.

14. For the purposes of the twelfth section, the residence of any person who has a family, shall he held to be where his family resides, and if he has no family, where he boards. The notice required by that section, may be given by the surveyor in person, or by any person under his direction, and may be served on the person liable to work

as aforesaid, or by leaving a written notice at his residence; and except in the last case, the notice may be either oral or in writing.

15. The surveyor of roads for any precinct, with the approval of the county court, may exempt from working on the roads in his precinct, any person he may think unable to perform such work, and at the same time, unable to pay the commutation. Such exemption must be in writing and shall not continue in force longer than one year from the date thereof.

Exemption from work on roads.  
Who may be exempted.  
How done.

16. Any person who has performed the work required by the twelfth section, or paid the commutation therefor, in any year in one road precinct, shall not, if he remove into another precinct, be required during the same year to work on the roads or pay commutation therein.

Persons removing from one district to another; when not required to work.

17. If any person, under the direction of the surveyor, perform more labor on the county roads of his precinct in any year than is due from him, the surveyor shall give him a certificate, specifying the amount of extra labor so performed, which certificate shall be received, for the amount specified, in discharge of any labor or road tax within the same precinct, due any subsequent year from the person to whom such certificate was given.

Extra labor in any year to be a credit on the next year.  
Certificates in such cases.

*Certain Powers of the Surveyors of Roads, &c.*

18. The county court of the county may authorize the surveyor of any road precinct to hire so many laborers as, with those liable to work on the roads in such precinct, and the money applicable thereto, will suffice to put and keep the county roads and bridges therein in good order, and open and make such new county roads and alterations as may be ordered by proper authority. The court may also authorize him to purchase powder for the removal of obstructions in the roads; and tools and implements to be preserved and transferred from one surveyor to another as the court may direct. The surveyor shall return a particular account on oath, of all expenses so incurred, as also of the expenses of placing and keeping up guide boards as before mentioned, and such account when audited and allowed by the court shall be paid out of the county treasury.

County court may authorize surveyor to hire laborers.  
May purchase powder.  
Cost thereof; how paid.

19. Whenever it may be necessary to have wagons, carts, ploughs, or scrapers, draught oxen, mules or horses for making or repairing any county road or bridge, the surveyor may hire the same by agreement with the owner, or, if he cannot so obtain the use thereof, may impress such of them as shall be necessary, with their gear. The surveyor, in either case, shall allow a fair compensation to the owner for the use thereof; and if the surveyor and owner do not agree as to the amount, each shall choose a

Surveyor may hire and press wagons, etc.  
Compensation therefor; how ascertained.

	freeholder of the district, and the two so chosen may, if necessary, select a third, to ascertain what would be a fair compensation to the owner for the use of the said property. The sum so agreed on or ascertained shall be paid by order of the court, out of any money applicable thereto. But in no case, in which the purchase of any of the aforesaid implements has been made by order of the county court shall the surveyor allow the same to be had or employed for private use.
How paid.	
Road implements not to be employed for private use.	
Power to take materials for repairing roads and bridges.	20. The surveyor of any road precinct may take from any convenient lands so much wood, stone, gravel or earth as may be necessary for constructing or repairing any county road or bridge in such precinct; and may, for the purpose of draining any such road, cause a ditch to be cut through any land adjoining the same. But such wood and other articles shall not be taken from, nor such ditch cut through any lot in a town or city, without the consent of the owner. The surveyor shall, if required, allow a fair compensation to the owner for the articles so taken or damage done by cutting the said ditch; but if the surveyor and owner do not agree as to the amount, the same shall be ascertained according to the preceding section.
Exceptions as to town lots, etc.	
Compensation therefor; how ascertained.	
How paid.	The sum so agreed on or ascertained shall be paid by order of the court out of any money applicable thereto.
Change of location of road; when and how made.	21. The surveyor may change any county road in his precinct with the consent of the owner of the land in which such change is made, provided such change does not increase the length or grade, or require more work to keep the road in repair, or place the same on worse ground than it was before such change, or render the said road in any respect worse than it was before the change. Any surveyor who shall make such change otherwise than as prescribed by this section, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten dollars.
Penalty for making change unlawfully.	

*Road Tax—How Levied and Collected.*

Road tax; duty of county court as to levy.	22. When the county court of any county shall decide to levy a tax in pursuance to the provisions of this chapter, it shall ascertain, as nearly as possible, the amount of money which will be necessary in each magisterial district in their county, together with the labor required to be performed therein, to construct, put and keep in good repair the roads and bridges in such district, and shall by an order entered of record, direct the assessor of the assessment district in which such district may be, to extend on the land and property books, required to be made by said assessor, a road tax on the real and personal property taxable in said district, at such rate as may be specified in such order, which levy shall be made upon the latest assessment thereof for state taxation. Such tax
Assessment; how made.	

shall be a lien on the real and personal property on which it is imposed in like manner and effect as county taxes, and shall be collected and accounted for by the sheriff in the same manner as county taxes are collected and accounted for. It shall constitute a road fund, to be expended on the order of the county court, in the district in which it may be collected, in the construction and repair of the roads and bridges therein. For extending the road levy on the land and property books the court shall allow the assessor a reasonable compensation, payable out of the county treasury, and for collecting said levy the sheriff shall be entitled to the same commission as for the collection of state taxes.

Lien of tax.

Road tax; collected.

To constitute a road fund; how expended.

Compensation of assessor.

23. If any person assessed with any road tax desire to pay the same, or any part thereof in labor, he shall work on the county roads or bridges in his district, if the same constitute but one road precinct, at such times and places as shall be appointed by the surveyor, or if there be more than one such precinct in the district, at such times and places as the county court may direct. *Provided*, That in case there be more than one road precinct in the district, and there be a necessity for the expenditure of such tax in the precinct where such person resides, then such labor shall be performed in that precinct. Such labor shall be performed in all cases under the direction of the surveyor, and the price thereof, when performed by an able-bodied man, as the law requires, shall be seventy-five cents per day. When any such labor is performed by or on behalf of any person assessed with such road tax, the surveyor within whose precinct such labor is performed, shall give the person performing such labor a certificate setting forth the number of days and fractional part of days' labor performed by such person, together with the money value thereof as prescribed by the foregoing rate. The sheriff shall receive such certificate in discharge of any road tax with which such person may be charged, to the amount specified in said certificate, and the amount of such certificate shall be allowed to the sheriff in his settlement for the collection of the road tax. Any surveyor knowingly giving a certificate, to any person charged with road tax, for a greater amount than the labor actually performed, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten nor more than one hundred dollars. *Provided further*, That any county court may, when there is a necessity for doing so as to any district, direct that not exceeding one-third of the amount levied under the preceding section shall be collected in money, and paid into the county treasury to the credit of the road fund.

Commission of sheriff for collecting.

When and how any person assessed with road taxes may discharge the same in labor.

Proviso.

Price per day for labor in discharge of road taxes.

Certificate to be given by surveyor.

Duty of sheriff in relation to such certificate.

To be allowed sheriff in settlement.

Penalty on surveyor for giving false certificate.

County court may limit the collections in money to one-third of the tax levied.

*Compensation of Surveyors of Roads.*

24. Every surveyor of roads shall be allowed, for his ser-

Compensation of surveyor of roads. vices, by the county court not less than one dollar nor more than one dollar and fifty cents for every day necessarily employed by him in performing his official duties, and his own affidavit shall be received as *prima facie* evidence thereof; and such account, when audited and allowed by the court, shall be paid out of the county treasury; and if he is liable to work on the roads there shall be deducted from his compensation two days' work in every year, and such other number of days as he may be required to work on roads by order of the county court. *Provided*, That not more than three dollars shall be paid to any surveyor of roads for warning persons to work on the roads in any year.

How ascertained and paid.

What to be deducted.

Limit as to amount for warning hands.

*Certain Powers of County Courts in Relation to Roads and Bridges.*

Powers of county court in relation to bridges. 25. When a bridge is necessary within a county, or across the boundary thereof, and it is not practicable for the surveyor of the road precinct to have it built or repaired with the means at his disposal, the county court of the county may contract for the same or any part thereof on such terms as may be agreed upon, and take bond and security from any contractor for the faithful performance of his contract, and pay for the work in whole or in part out of the county treasury, or by issuing bonds, or other evidence of debt, for the same, as may be agreed upon. And to this end they may appoint one or more commissioners, or a committee of their own body, to advertise for and receive proposals, and may make such other order in the premises from time to time as shall be necessary and proper. Upon the completion of any such bridge the court may charge and receive such reasonable tolls thereon as they may from time time ordain or establish, subject to the right of the legislature or board of public works to change the same.

May contract for the building of bridges.

How paid for. May issue bonds.

May appoint commissioners to receive proposals.

When and how tolls may be charged. How tolls changed.

Power of county court, as to roads. 26. In like manner they may contract and pay for making, improving or keeping in order the whole or any part of any county road within the county.

Bridge or road between two counties. 27. When it becomes necessary to build or repair a bridge across any stream on a line between two counties, or to construct or keep in repair any road, or to connect any roads between two counties, the county courts of such counties may enter into such arrangements therefor as to them shall seem best; but if they disagree in relation thereto, it shall be the duty of the county court of each county to appoint commissioners to meet and arrange the matter; and if they should disagree they shall call to their aid one or more commissioners from another county to assist them in their decision; and whenever a decision is arrived at, and is confirmed by the court of each county, it shall be binding. If the county court of any county, upon

How arranged for. Proceedings in case of disagreement.

When decision binding.

being required to do so, shall fail to appoint commissioners, or if either court shall fail in any respect to do on its part what should be done towards the work, the remedy by *mandamus* shall lie before the circuit court of the county whose county court is complained of, on behalf of the court of the other county; and the circuit court shall compel the county court complained of to do what ought to be done in the matter.

When appointment of commissioners may be compelled by *mandamus*.  
Duty of circuit court in such cases.

28. When any joint stock company incorporated by this state shall have been formed to construct a road or bridge wholly or in part within any county, the county court of such county may subscribe for, take, hold and dispose of stock in such company under the regulations and subject to the restrictions prescribed by law.

Power of county court to subscribe for stock in incorporated companies.

29. The county court of a county may, upon petition, permit gates to be erected across any county road therein, or cause any gate erected across a county road to be removed, but notice of every petition for that purpose must be first posted at the front door of the court house, and at three public places in the vicinity of the gate proposed to be erected or removed, at least three weeks before the meeting at which such order is made.

When and how gates may be erected and removed.  
Notice in such cases.

30. The county court of a county may, upon petition, direct any county road or landing therein to be discontinued; but notice of every such petition must, three weeks at least before it is acted upon, be posted at the front door of the court house, and at three public places in every district in which any part of the said road or landing may be. Upon such petition, after notice given as aforesaid, the county court shall appoint two or more viewers, or a committee of their own body, to view such road or landing and report in writing whether, in their opinion, any, and if any, what inconvenience would result from discontinuing the same. Upon such report and other evidence, if any, the court may discontinue the road or landing; taking care in every case of an established post road not to discontinue the same until another has been established. But this section shall not apply to any turnpike road which has been or shall be transferred to any county by the state.

When and how roads and landings discontinued.  
Notice in such cases.

Proceedings upon the petition.

Report of commissioners, etc.

Not to apply to roads transferred to counties.

*Certain General Provisions Respecting County Roads, Bridges and Landings, and Streets and Alleys in Incorporated Cities, Towns and Villages.*

31. Every county road, bridge and landing, and every street and alley in an incorporated city, town and village, heretofore established and opened pursuant to law, and which has not been lawfully discontinued or vacated, shall continue as such until properly discontinued, and every road, street or alley used and occupied as a public

Roads heretofore established to remain such.



Roads worked as public roads to be deemed such.

Roads and bridges transferred to counties deemed public roads.

Effect of alterations of roads.

What land condemned for landing. Establishment of road or landing in incorporated town, etc.

Width of bridges and roads.

Grade not exceed five degrees.

Roads, bridges or landings; how established or altered.

Viewers to be appointed.

Surveyor to be employed; his compensation.

road, street or alley, shall in all courts and places be taken and deemed to be a public road, street or alley (as the case may be), whenever the establishment thereof as such may come in question. The roads, bridges and public landings transferred by the state to the several counties in which they are situated shall hereafter be regarded as county roads, bridges and landings.

32 When any road is altered the former road shall be discontinued to the extent of such alteration and no further, and the new one established.

33. Not more than two acres of land shall be condemned for any landing; and no road or landing shall be established by the county court of a county upon or through any lot in an incorporated village, town or city without the consent of the council thereof.

34. No bridge, unless it be exclusively for footmen, shall be less than twelve feet wide. Every road shall be thirty feet wide, unless the county court order it to be of a different width. The grade of any road to be hereafter established shall not exceed five degrees unless specially authorized by the county court of the county.

*Proceedings for the Establishment or Alteration of a Road, Bridge or Landing.*

35. When any person desires the establishment or alteration of a public road, bridge or landing in any county, he shall petition the county court thereof for that purpose, setting forth in his petition specifically the nature and location of the proposed work; and the county court shall thereupon (and they may do so without such petition in any case in which they deem the interest of the people of the county requires it), appoint two or more viewers, or a committee of their own body, to view the ground and report the advantages and disadvantages which, in their opinion, will result as well to individuals as to the public from the proposed work, the grade of the proposed road, as near as may be, and the facts and circumstances that may be useful to enable the court to determine whether such work ought to be undertaken by the county; stating specially whether it would be necessary to take any yard, garden, orchard or any part thereof, or to injure or destroy any buildings; the probable cost of the work; the names of the landowners whose property would have to be taken or injured; which of them requires compensation, and the probable amount to which each of them would be entitled. The viewers or committee may examine other routes or locations than that proposed, and report in favor of the one they prefer, with the reasons for their preference. They shall employ a surveyor, if one can be had in the county, to assist them in the performance of their duties,

who shall be allowed a reasonable compensation, not exceeding three dollars per day, to be paid out of the county treasury. A map or diagram of the route or location shall be returned with the report. The report may be re-committed by the court with or without special instructions, to the same or other viewers or committee.

Map or diagram of road to be returned with report. Report may be re-committed.

36. Upon the report, if the court be against the proposed establishment or alteration, the petitioner shall pay all costs and expenses of the proceeding, to be ascertained by the clerk of the said court, and if necessary, execution may issue therefor. But unless the court upon such report decide against undertaking the proposed work, they shall appoint a day for hearing the parties interested, and cause notice thereof to be given to the proprietors and tenants of the property which would have to be taken or injured, to show cause against the same. Such notice may be served on such of them as are found within the county, and on any agent therein of any proprietor not so found, or by posting a copy thereof on the front door of the court house for three weeks, and by sending another copy by mail, postage paid, to the postoffice nearest his residence, if it be known, as to any party interested who is not found in the county.

When petitioner to pay costs.

How costs ascertained.

Hearing on report, etc. Notice to be given to proprietors and tenants of land to be taken; how served.

37. At any time, if the court have enough before them to enable them to ascertain what would be a just compensation to the proprietors and tenants, and such proprietors and tenants are willing to accept what the court deems just, the said court, upon such acceptance being reduced to writing and signed by the proprietors and tenants, may determine to undertake the work.

Court may, with consent of land owners, etc., undertake the work. Acceptance of land owners, etc., to be reduced to writing and signed.

38. When hearing the parties interested in an application for a public road, the county court shall decide for or against undertaking the proposed work on behalf of the county. If it decide in favor of the same, and the compensation to be paid to any proprietor or tenant be not fixed by agreement, it shall order proceedings to be instituted and prosecuted in its corporate name in the circuit court of the county, pursuant to the forty-second chapter of this code, to ascertain what will be a just compensation to such proprietor or tenant for the land proposed to be taken. But when such compensation shall be so ascertained, it shall be at the option of the county court to pay the same or to abandon the proposed undertaking; and if it decide to pay the same, it shall lay a sufficient levy for the purpose, as provided in chapter thirty-nine of this code.

Proceedings upon hearing the parties.

Decision, when not satisfactory; proceedings to be instituted in circuit court under 42d chap. of code.

Court to have option to pay the damages ascertained or abandon the proposed road.

*Duties of Owner of Dam Across which a Road Passes.*

39. The owner or occupier of every dam shall, as far as any road passes over the same, keep such dam in good order, at least twelve feet wide at the top; and also keep

Duties of owners of dams.

in good order a bridge of like width over the pier-head, flood-gates, or any waste cut through or round the dam; and shall erect and keep in good order a strong railing on both sides of such bridge or dam. If he fail to comply with this section, he shall pay a fine, for every twenty-four hours' failure, of two dollars. But the fine shall not, in any one prosecution, exceed fifty dollars; and where a mill dam is carried away or destroyed, the owner or occupier thereof shall not be thenceforth subject to such fine until one month after the mill shall have been put in operation.

**Penalty.** And every owner of a dam hereafter built, which dam, by the backing of the water or otherwise, obstructs any public road, or if any race or ditch connected therewith shall materially obstruct any such road, shall, whenever it may be necessary for the safe and convenient crossing of the same, or the pond created thereby, build and keep in repair over and across the said dam, pond, race or ditch, a bridge of like kind and description as is hereinbefore specified, and for any failure to do so, every such owner or occupier shall be fined as hereinbefore provided.

**In what cases owners of dams to build bridges.**

**Penalty for failure.**

#### *How Wharf, Pier or Bulkhead May be Erected.*

**Erection of wharf, bulkhead, etc.**

**How abated.**

**How wharf erected at public landing.**

**How notice to be given.**

**Privilege may be revoked, or charges regulated.**

**Erection of; in incorporated town, etc.**

40. Any person owning land upon a water course may erect a wharf on the same, or a pier or bulkhead in such water course, opposite his land, so that the navigation be not obstructed thereby, and so that such wharf, pier or bulkhead shall not otherwise injure the private rights of any person. But the county court of the county in which such wharf, pier or bulkhead shall be, after causing ten days' notice to be given to the owner thereof of its intention to consider the subject, if it be satisfied that such wharf, pier or bulkhead obstructs the navigation of the water course, or so encroaches on any public landing as to prevent the free use thereof, may abate the same.

41. Any person desiring the privilege of erecting a wharf at or on any public landing, may present a petition to the court of the county for such privilege; but notice of the petition, or of his intention to present the same, must be posted at the front door of the court house and three public places in the district in which it is proposed to erect such wharf, three weeks at least be before the petition is acted on. The said court, upon petition and notice, may grant such privilege upon such conditions and limitations, and fix such rates and charges for wharfage as it sees fit. But it may, at any time afterwards, upon ten days' notice to the owner of such wharf or his tenants, revoke such privilege or alter such conditions or limitations, or regulate the rates of charges.

42. Nothing contained in either of the last two sections shall be construed to authorize the erection of any wharf, pier or bulkhead within the limits of an incorporated

town, village or city, without the consent of the council thereof.

*Exception as to Roads in Towns, Villages and Cities.*

43. Nothing contained in this act shall be construed to take from the jurisdiction, charge or control of the council, trustees or other authority of any town, village or city, so much of any road, bridge, landing or wharf, as by the laws now in force is under such jurisdiction, charge, or control exclusively.

Exceptions as to roads in towns, etc.

*Offenses Relating to Roads, Bridges, Etc.*

44. In the following sections of this chapter, unless a different construction is required by the context, the word "road" includes any state or county road, turnpike or road owned by a company, or person, and the Cumberland road; and the word "bridge" any state or county bridge, owned by a company or person.

Construction of the words "road" and "bridge."

45. Any person who shall kill a tree and leave it stand- ing within the distance of fifty feet from a road ; or with- out lawful authority shall knowingly and wilfully break down, destroy, injure or obstruct any bridge or any bench or log placed across a stream for the accommodation of travelers; or destroy, injure, deface or alter any guide board, milestone or milepost; or obstruct or injure any road or any ditch made for the purpose of draining a road, shall be guilty of a misdemeanor, and on conviction there- of shall be fined not less than ten nor more than fifty dollars.

Penalties for obstructing roads, etc.

46. Any person who shall drive or ride on or over a bridge faster than a walk shall be fined five dollars. The county court of any county, may prescribe by an order, what number of stock of any kind may be driven over any bridge within their county at any one time; but in every such case they shall cause a printed copy of such order to be kept posted in a conspicuous place at every bridge to which the same is applicable. Every person violating any such order posted as aforesaid, or who shall tear down, alter or deface the same, except when ordered by such court to do so, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars.

For fast driving over bridge.

Number of stock to be driven over a bridge.

Posting copy order in relation thereto.

Penalty for violation of.

47. The fines incurred under the last two sections, shall accrue in the case of a county road, bridge or work to the county court of the county and be paid and applied as provided in the fiftieth section of this chapter; in the case of a road, turnpike or bridge owned by a company or person, shall accrue to such company or person; and in the case of the Cumberland road or any state work, shall accrue to the state.

Fines; where they accrue.

in good order a bridge of like width over the pier-head, flood-gates, or any waste cut through or round the dam; and shall erect and keep in good order a strong railing on both sides of such bridge or dam. If he fail to comply with this section, he shall pay a fine, for every twenty-four hours' failure, of two dollars. But the fine shall not, in any one prosecution, exceed fifty dollars; and where a mill dam is carried away or destroyed, the owner or occupier thereof shall not be thenceforth subject to such fine until one month after the mill shall have been put in operation. And every owner of a dam hereafter built, which dam, by the backing of the water or otherwise, obstructs any public road, or if any race or ditch connected therewith shall materially obstruct any such road, shall, whenever it may be necessary for the safe and convenient crossing of the same, or the pond created thereby, build and keep in repair over and across the said dam, pond, race or ditch, a bridge of like kind and description as is hereinbefore specified, and for any failure to do so, every such owner or occupier shall be fined as hereinbefore provided.

Penalty.

In what cases owners of dams to build bridges.

Penalty for failure.

#### *How Wharf, Pier or Bulkhead May be Erected.*

Erection of wharf, bulkhead, etc.

How abated.

How wharf erected at public landing.

How notice to be given.

Privilege may be revoked, or charges regulated.

Erection of; in incorporated town, etc.

40. Any person owning land upon a water course may erect a wharf on the same, or a pier or bulkhead in such water course, opposite his land, so that the navigation be not obstructed thereby, and so that such wharf, pier or bulkhead shall not otherwise injure the private rights of any person. But the county court of the county in which such wharf, pier or bulkhead shall be, after causing ten days' notice to be given to the owner thereof of its intention to consider the subject, if it be satisfied that such wharf, pier or bulkhead obstructs the navigation of the water course, or so encroaches on any public landing as to prevent the free use thereof, may abate the same.

41. Any person desiring the privilege of erecting a wharf at or on any public landing, may present a petition to the court of the county for such privilege; but notice of the petition, or of his intention to present the same, must be posted at the front door of the court house and three public places in the district in which it is proposed to erect such wharf, three weeks at least before the petition is acted on. The said court, upon petition and notice, may grant such privilege upon such conditions and limitations, and fix such rates and charges for wharfage as it sees fit. But it may, at any time afterwards, upon ten days' notice to the owner of such wharf or his tenants, revoke such privilege or alter such conditions or limitations, or regulate the rates of charges.

42. Nothing contained in either of the last two sections shall be construed to authorize the erection of any wharf, pier or bulkhead within the limits of an incorporated

town, village or city, without the consent of the council thereof.

*Exception as to Roads in Towns, Villages and Cities.*

43. Nothing contained in this act shall be construed to take from the jurisdiction, charge or control of the council, trustees or other authority of any town, village or city, so much of any road, bridge, landing or wharf, as by the laws now in force is under such jurisdiction, charge, or control exclusively. Exceptions as to roads in towns, etc.

*Offenses Relating to Roads, Bridges, Etc.*

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45. Any person who shall kill a tree and leave it standing within the distance of fifty feet from a road; or without lawful authority shall knowingly and wilfully break down, destroy, injure or obstruct any bridge or any bench or log placed across a stream for the accommodation of travelers; or destroy, injure, deface or alter any guide board, milestone or milepost; or obstruct or injure any road or any ditch made for the purpose of draining a road, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars. Penalties for obstructing roads, etc.

46. Any person who shall drive or ride on or over a bridge faster than a walk shall be fined five dollars. The county court of any county, may prescribe by an order, what number of stock of any kind may be driven over any bridge within their county at any one time; but in every such case they shall cause a printed copy of such order to be kept posted in a conspicuous place at every bridge to which the same is applicable. Every person violating any such order posted as aforesaid, or who shall tear down, alter or deface the same, except when ordered by such court to do so, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten nor more than fifty dollars. For fast driving over bridge. Number of stock to be driven over a bridge. Posting copy order in relation thereto. Penalty for violation of.

47. The fines incurred under the last two sections, shall accrue in the case of a county road, bridge or work to the county court of the county and be paid and applied as provided in the fiftieth section of this chapter; in the case of a road, turnpike or bridge owned by a company or person, shall accrue to such company or person; and in the case of the Cumberland road or any state work, shall accrue to the state. Fines; where they accrue.

Duty of driver meeting or overtaking another.

48. Any driver of a vehicle meeting any other vehicle on a road or bridge, shall seasonably drive to the right, if the width thereof will permit, so that they may pass each other without interference. And when a vehicle is overtaken by another vehicle, the driver of which desires to pass the other, the driver of the former, upon being informed of such desire, shall bear to the right, and the driver of the latter to the left, until the latter shall have passed. Any driver failing to do so shall forfeit two dollars.

Penalty for failure.

Horse racing on road or bridge; penalty for.

49. If any horse race be run on any public road or bridge, the rider of any horse in such race, the owner of any such horse, if he consent to such race, and every person who shall bet on such race shall be fined not less than ten dollars.

Imposition of fine not to bar action for damages, etc.

50. No fine imposed by this chapter shall bar any action for damages or breach of contract. Except where it is otherwise specially provided, all fines imposed shall accrue to the county court of the county, and be paid to the sheriff of the county, to be applied to the construction, improvement and repair of county roads, bridges and landings in the district in which the offense was committed.

Fines, to whom paid and how applied.

Duty of railroads obstructing public roads.

51. Every railroad company heretofore or hereafter incorporated, which has, by the building of their road, or otherwise, obstructed, or shall hereafter obstruct any public road, shall, as far as possible, put the road so obstructed in as good condition at every crossing of said railroad as it was before the obstruction.

Penalty on county court for neglect of duty.

52. If a county court willfully fail or refuse to perform any duty required of such court by this chapter, every member of such court concurring in such failure or refusal shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, at the discretion of the court.

*Remedy by Action Against County, City, &c., for Injuries Sustained by Reason of Road, &c., Being Out of Repair.*

Recovery of damages for injuries on roads or bridges.

53. Any person who sustains an injury to his person or property by reason of a public road, or bridge, in a county, or by reason of a public road, bridge, street, sidewalk or alley in an incorporated city, village or town, being out of repair, may recover all damages sustained by him by reason of such injury, in an action on the case in any court of competent jurisdiction, against the county court, city, village or town in which such road, bridge, street, sidewalk or alley may be, except that such city, village or town, shall not be subject to such action, unless it is required by its charter to keep the road, bridge, street, sidewalk or alley therein, at the place where such injury is sustained, in repair. If it is not so required, the action

Proceedings in such cases.

and remedy shall be against the county court. When judgment is obtained against a county court, such court shall levy upon the taxable property of the district in which such injury was sustained, a sufficient sum to pay such judgment with interest and costs, and the cost of collecting the same, and when it is obtained against a city, town or village, the proper corporate authorities thereof shall lay such levy on the property subject to taxation in such city, village or town. And in case of a failure by either to do so, or to pay the judgment as required by law, the circuit court of the county shall compel the laying of such levy, or the payment of such judgment, or both by *mandamus*. The summons in such case against the county court shall issue against such court and be served as provided in chapter thirty-nine of this code, and if the case be against a city, village or town, it shall issue against the same by its corporate name and be served on the mayor, recorder, treasurer or two councilmen.

How judgment enforced.

54. Any person who may be injured as aforesaid by reason of a turnpike, road or bridge belonging to any company or person, or to any county in its corporate capacity, being out of repair, may recover all damages sustained by him by reason of such injury, in the manner prescribed in the preceding section, against such company, person or county, or against the lessee for the time being of any such road or bridge. Any judgment against a city, town, village or county under this section may be enforced by the circuit court by writ of *mandamus*. The enactment of this section shall not affect any action or suit now pending for any such company as is mentioned herein, but the same may be prosecuted and judgment therein enforced with like effect, as if this section had not been enacted.

Redress for injuries on roads or bridges belonging to companies, etc.

How judgment enforced

#### *Definition of Certain Words.*

55. The words "county court," in this chapter, shall be construed and held to apply to and include any tribunal heretofore established and now existing in a county for police and fiscal purposes, in lieu of the county court.

Construction of words "county court."

#### *Acts Repealed.*

56. All acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed, except that the act passed December 20, 1873, entitled "An act providing an alternative method of constructing and keeping in repair county roads," and acts amendatory and in aid thereof, shall not in any wise be affected by this act.

Acts repealed.

[Approved March 14, 1881].

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.



## CHAPTER XV.

AN ACT to revive, amend and re-enact chapter forty-five of the code of West Virginia, concerning education.

[Passed March 8, 1881].

Be it enacted by the Legislature of West Virginia:

Chapter 45 of Code revived, amended and re-enacted.

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

## CHAPTER XLV.

## OF EDUCATION.

School districts and sub-districts provided for.

Present districts, etc., to remain until, etc.

1. Every magisterial district in each of the counties of this state shall be a school district, and the same shall be divided into such number of sub-districts as may be necessary for the convenience of the free schools therein. The present districts and sub-districts shall remain until changed in the manner prescribed by law.

*Election of School Officers—School Levy—Vote On.*

County superintendent; when elected.

Term of office of.

Exception as to term of office of; first election.

President and commissioners; election of; when. To be the board of education. Term of office

Eligible to only one office, etc.

How and where voted for.

Notice of such election.

Poll books; by whom prepared; when delivered, etc.

2. A county superintendent of free schools in each county shall be elected by the voters thereof on the third Tuesday in May, 1881, and in every second year thereafter, whose term of office shall commence on the first day of July next after his election, and continue for two years, and until his successor shall be elected, and qualified according to law, except that the term of service of the county superintendent first elected shall begin on the first day of September, 1881, and continue twenty-two months, and until his successor shall be elected and qualified. There shall be elected at the same time, in each district of the county, by the voters thereof, a president and two commissioners, who shall constitute the board of education for the district, whose term of office shall commence on the first day of July next after their election, and continue for two years, and until their successors shall be elected and qualified according to law. No person shall be eligible to more than one office, under the provisions of this chapter, at the same time. The voting at said election shall be by ballot, and the same shall be held in each district of the county, at the several places of voting therein for state officers and members of the legislature, and it shall be the duty of the board of education of each district, to give at least three weeks' notice of such election, by posting the same at each place of voting, and at such other places as they may deem necessary. Poll books for said elections shall be prepared by the board of education of each district for the several places of

voting therein, and delivered to the commissioners, or some of them, appointed to superintend the election at each place of voting, before seven o'clock A. M., of the day on which the election is held. The county court of each county, and the proper court or other tribunal of each city, shall, before every election to be held under the provisions of this chapter, appoint three commissioners at the court house, and the like number for each place of voting in the county or corporation at which a poll is to be taken, to superintend the said election, and the said election shall be superintended, conducted and returned, and the result thereof ascertained, in all respects as is provided for by law in regard to the election of county and district officers; and all the provisions of the law in regard to general elections shall, as far as applicable, govern and apply to elections held under the provisions of this chapter. The county superintendent of free schools shall, immediately upon receiving the certificate of his election from the commissioners at the court house, forward a written notice thereof to the state superintendent of free schools. In case of a tie in the vote for members of the board of education, the county superintendent of free schools shall give the casting vote; and in case of a tie in the vote for a county superintendent of free schools, the presidents of the several boards of education in the county shall, at a meeting called for that purpose, at the court house of the county, by the clerk of the county court, not less than six nor more than twelve days after the result of such election is ascertained, appoint one of the persons receiving the highest number of votes for said office at the said election, as county superintendent of free schools; who shall give notice, as aforesaid to the state superintendent of his appointment. A notice of such meeting shall be made out by the clerk of the county court, and served upon each president of a board of education in the county, at least three days before the day of such meeting, by the sheriff or other officer, to whom the same may be delivered to be served. The ballots used at said election shall also have written or printed thereon the words, "For school levy," or "Against school levy," as the voter may choose, and if a majority of the ballots cast upon that question in a district, have written or printed thereon "For school levy," it shall be the duty of the board of education to make the levies required by the thirty-ninth and fortieth sections of this chapter, for each year during its term of office, but if a majority of the ballots cast in a district have written or printed thereon "Against school levy," no levy shall be made by said board for the year next succeeding. But it shall be the duty of said board to cause a special election to be hold on the same day in the following year at which the question of levy, or no levy, shall in like manner be again sub-

County court, etc. to appoint commissioners of electi...

How election superintended, returned, etc.

What provisions of law to govern, etc.

County superintendent to send notice of his election to state superintendent; when.

The vote for members of board of education; how determined. Tie vote for county superintendent; how determined.

Notice of such meeting.

Ballots for levy; what to have written, etc., thereon.

When board of education to make levy and when not to.

Board to again submit question of levy or no levy; when.

mitted to the people for their decision, and if a majority of the ballots cast at such special election be "For school levy," such levy shall be made as hereinbefore required. Of every such special election the clerk of the board of education of the district shall give notice, by posting the same at each place of voting in the district, at least ten days before the day on which the same is to be held.

Notice to be given of special election for levy.

Penalty on commissioner of election for misconduct, etc.

3. Any person who may act as commissioner of any election, held under any of the provisions of this chapter, who shall willfully reject the vote of any person entitled to vote at said election, or receive the vote of any person not so entitled, or who shall knowingly make any false return of the result of any such election, or of any poll held at any place of voting, shall be guilty of a misdemeanor, and fined not less than fifty dollars, and imprisoned not less than twenty days.

*Appointment of Trustees and Fillings of Vacancies.*

Trustees; number of; when and how appointed.

For what time.

One to be appointed annually. Term of office.

Vacancies; how filled.

4. At the meeting of the district board of education, held on the first Monday in July, 1881, they shall appoint three intelligent and discreet persons, as trustees for each sub-district in their district, one of whom shall be appointed for one year, one for two years, and one for three years; and the board of education shall thereafter annually appoint one trustee; who shall hold his office for three years; and the said trustees shall hold their respective offices until their successors are appointed and qualified.

5. Vacancies in the office of school trustee, shall be filled by the board of education for the unexpired term; and in the board of education, by the county superintendent of free schools, for the unexpired term.

*The First Meeting of Board of Education; When Held; What Business to be Done Thereat; Quorum.*

Boards of Education; first meeting of; when held.

What to do.

Grade of teacher's certificate to determine salary.

Trustees not to exceed salary so fixed.

Quorum of board. Absence of president; who to act.

6. The boards of education of the several districts shall hold their first meeting for each school year on the first Monday in July. At this meeting they shall determine the number of months the school shall be held in the district, the number of teachers that may be employed in the several sub-districts, and fix the salaries that shall be paid to the teachers. In determining the salaries they shall have regard to the grade of teachers' certificates, fixing to each grade the salary that shall be paid to teachers of said grade in the several sub-districts, and the trustees of the several sub-districts shall, in no case, transcend the salaries so fixed in any contract they may make with teachers. A quorum of the board of education shall consist of a majority of the members thereof; and in the absence of the president, one of said members may act as such; but they shall do no official business, except when assembled

as a board, and by due notice to all the members, except that the president and secretary, may sign orders upon the sheriff for any sums of money, which may have been already ordered to be paid. The members of the board of education shall each receive, as compensation for his services, the sum of one dollar and fifty cents per day, to be paid in a like manner as the salary of the clerks of the board of education; *Provided*, That no member shall receive pay for more than four days' service in any one year.

To do no official business except, etc.  
President and secretary may sign orders; when.  
Compensation members of board.  
How paid.  
Amount limited.

*Board of Education a Corporation, and as such Succeed to the Rights, etc., of District Boards of Education.*

7. The board of education of each district shall be a corporation by the name of "the board of education of the district of \_\_\_\_\_, in the county of \_\_\_\_\_," and as such may sue and be sued, plead and be impleaded; and as such corporation, shall succeed and be substituted to all the rights of the former township and district boards of education, and may prosecute and maintain any and all suits and proceedings now pending, or which might have been brought and prosecuted in the name of any such former board of education for the recovery of any money, or property, or damage to any property due to or vested in such former board. The said board shall also be liable in its corporate capacity for all claims legally existing against the board of education of which it is successor. Said board shall receive, hold and dispose of according to the rules of law and the intent of the instrument conferring title, any gift, grant, devise, or bequest, made for the use of any free school, or schools under their jurisdiction; and without any transfer or conveyance, shall be deemed the owner of the real and personal property of their district, and the property of the former township or district for which their district was substituted. Process and notice may be served on said corporations by delivering a copy thereof to the secretary, or any two members of the board. And all suits or proceedings now pending in any of the courts of the state, in the name of the board of education of any district for any demand or claim in favor of the board of education of any township or district, are hereby made valid.

Board a corporation.  
Powers of such board.  
Liability of.  
Further powers of board.  
Process, etc.; how served.  
Certain suits, etc., now pending in name of board, etc., made valid.

*Secretary of the Board—His Duties and Compensation.*

8. The board of education, at their first meeting after their election, shall appoint a secretary, who shall not be a member of the board, and who shall attend all meetings of the board, and record their official proceedings in a book kept for that purpose, which record shall be attested by his signature and the signature of the president of the board, and which shall, at all seasonable times, be open to the inspection of any person interested therein; he shall

Secretary of board; when appointed.  
His duties.

have the care and custody of all papers belonging to the board containing evidence of title, contracts or obligations, or being otherwise valuable, and preserve the same in his office, properly arranged for reference, and shall record and keep on file in his office such papers and documents as the board or the law may direct. He shall keep such accounts and prepare and certify such reports and writings pertaining to the business of the board, as the board or law may direct. He shall publish within three days after any meeting of the board of education, an abstract of the proceedings thereof by posting the same at the front door of the place of meeting. He shall within ten days certify to the county superintendent of free schools, the amount levied for school purposes upon each one hundred dollars valuation of property in his district, and said superintendent shall, within twenty days, certify to the auditor, the amount levied for school purposes upon each one hundred dollars' value of property in his district. He shall also have authority to administer oaths to school officers in all cases where they are required to take an oath as such. For his service as secretary he shall receive such compensation as the board may determine, not exceeding fifteen dollars per year, to be paid out of the building fund by an order drawn by the county superintendent, when after an examination by said superintendent of said secretary's books, they are found to be correct. But such order shall not be drawn until the secretary shall have made his annual report to the county superintendent as hereinafter provided.

County superintendent to certify to auditor school levies; when.

Clerk authorized to administer oaths. Compensation of clerk.

How paid and when.

*Powers and Duties of Boards of Education—What Schools to be Kept, and Who may Attend Them.*

9. The boards of education shall have general control and supervision of the schools and school interests of their districts; they may determine the number and location of the schools to be taught; change the boundaries of their sub-districts, and increase and diminish the number thereof, having due regard for the school houses already built, or sites procured, assigning, if practicable, to each sub-district not less than forty youths, between the ages of six and twenty-one years; *Provided*, That every village consisting of fifty inhabitants, or more shall be included in one sub-district; *And provided further*, That no change in any sub-district, shall take effect, except immediately after the annual apportionment of the general school fund. When such village as is mentioned in this section is divided by district or county lines, the said village shall be included in the sub-district, to be under the supervision of the board of education of the district to which the largest division of its territory is attached, and said board

Boards of education; powers and duties of. To determine number, etc., of schools. Change boundaries, etc., of sub-districts. What to have regard for.

Proviso, as to villages of fifty inhabitants.

When change in sub-district to take effect. When village is divided by district lines, etc.; what then. District and sub-district lines to be defined and

shall define and enter of record in the office of their secretary the several district and sub-district lines. Any person aggrieved by any decision of the board of education, changing the boundaries of a sub-district, or increasing, or diminishing the number of the sub-districts in their district, under this section, may appeal therefrom to the county superintendent of schools, and have the same corrected, if erroneous. Every such person shall present to the county superintendent his petition, signed by himself and at least five other residents of the sub-district, stating the action of the board complained of, and the grounds of the appeal; and the county superintendent shall thereupon fix a time and place, for the bearing of the appeal, and cause a notice thereof to be served upon the president or secretary of the board of education, at least five days before the hearing. If, upon hearing the proofs and allegations of the parties, the superintendent be of the opinion that the action of the board complained of was illegal or improper he shall reverse or correct the same, otherwise the said action shall be affirmed.

entered of record.

Appeal to county superintendent; in what cases. Petition in such appeals. What to contain.

Time for hearing appeal. Notice.

County superintendent may reverse action of board or affirm same; when.

10. The board of education shall cause to be kept in every sub-district of their district, by a teacher or teachers of competent ability, temperate habits and good morals, a sufficient number of primary schools for the instruction of the persons entitled to attend the same, and should the trustees of any sub-district neglect or fail to employ a teacher for their sub-district, upon complaint thereof, it shall be the duty of the board of education to do so. The following persons when residing in a sub-district, with intent to make such sub-district their home, shall have a right to attend and receive instruction at the primary schools thereof, that is to say: Every youth between the ages of six and twenty-one years, shall have such right; and any other person wishing to receive instruction at any free school in this state, shall have a right, with the assent of the trustees, to attend such school, and the teacher or teachers there employed shall give instruction to such person the same as is required by law for other persons, upon the payment of tuition fees, not to exceed one dollar and fifty cents per month for each pupil, and upon such other terms as the trustees of the sub-district may prescribe. Said tuition fees shall be paid in advance to the sheriff, who shall give his receipt therefor, and place the amount to the credit of the teacher's fund of said district.

Board to cause to be kept sufficient schools in every sub-district.

Failure of trustee to employ teachers, board to employ.

Who may attend school.

Who to pay fees.

To whom paid and how disposed of.

*Branches of Learning to be Taught.*

11. In the primary schools there shall be taught, orthography, reading, penmanship, arithmetic, English grammar, history, geography and such other branches as the board of education may direct.

What to be taught.

Board of education to control trustees. When board may revise and correct action of trustees.

Transfer of scholars; how and where.

Not to affect enumeration.

Who to manage such school.

In cases of transfer of pupils, how paid.

Trustee to appoint teachers, etc. Appointment to be in writing.

Who to approve.

Where filed.

How teachers removed, and for what.

Trustees may exclude, suspend or expel scholars; when and for what causes.

Teachers not to be appointed or removed by trustee except, etc. Action in this particular subject to revision, etc., of board of education; when.

12. The trustees shall be under the supervision and control of the board of education, and in all cases the action of the trustees shall be subject to the revision and correction of the board of education, on the motion of any member thereof, or upon the complaint in writing of any three taxpayers of their sub-district. Whenever it shall happen that the persons authorized to attend school are so situated as to be better accommodated at the primary school of an adjoining sub-district, whether in the same or in an adjoining district or county, or whenever it may be necessary to establish a school composed of pupils from parts of two sub-districts, whether in the same or in an adjoining district or county, it shall be the duty of the trustees of the sub-districts interested to transfer such persons for school purposes to the sub-district in which such school house is, or may be, situated; but the enumeration of youth shall be taken in each sub-district as if no transfer had been made, and the trustees of the sub-district in which the school is situated shall have the management of such school. But in all cases of transfer of pupils from one district to another, the board of education of the district from which the transfer is made shall pay to the board of education of the district in which the school is carried on, such proportion of the cost of said school, as the scholars so transferred bear to the whole number of scholars taught in such school.

13. The trustees of every sub-district shall have charge of the schools therein, and shall appoint the teachers of such schools. Such appointment, shall be in writing, according to the form furnished by the state superintendent of free schools, and shall be submitted to the board of education, or to the president thereof when the board is not in session, for approval, and when approved by either it shall be filed within one week thereafter with the secretary of the board of education. Any teacher so appointed may be removed by the trustees, or by the board of education for incompetency, neglect of duty, intemperance, profanity, cruelty or immorality. The trustees shall exclude from any school under their charge a person having a contagious or infectious disease, and they may suspend or expel any scholar found guilty of disorderly, refractory, indecent or immoral conduct and, may refuse to admit such scholar again to the school until satisfied that he will properly conduct himself thereafter. But the trustees shall take no action or proceeding relating to the appointment or removal of teachers or the suspension or expulsion of any scholar from school unless at a meeting of which all the trustees shall have had notice, and when at least two of their number shall be present and concur in such action or proceeding, and their action in each particular shall be subject to

the revision and correction of the board of education, upon complaint, in writing, of a majority of the patrons of the school residing within the sub-district in which such action has been taken. Any trustee may, for good cause shown, be removed from office by the board of education, upon five days' notice, in writing, of the cause alleged for his removal, and of the time and place the board will take action thereon. Whenever, at the end of any school month, the daily average attendance for that month has been less than thirty-five per cent. of the whole number of pupils enumerated in the sub-district, the trustees may dismiss the teacher and discontinue the school, unless otherwise directed by the board of education; and no high school shall be continued, if, at the end of any school month, it has not had the average daily attendance of twenty-five scholars.

How trustee removed, and for what.

When school may be discontinued, etc., by trustee.

When high school may be discontinued.

14. The trustees shall visit every school under their charge within two weeks after the opening, and again within two weeks before the close thereof, and at such other times as in their opinion may be useful to do so. During such visits, they shall inspect the register of every teacher, and see whether it has been properly kept, and ascertain whether the scholars have supplied themselves with books and other things requisite for their studies; whether the school house and grounds, furniture, apparatus and library are kept in good order; whether anything injurious to the health is suffered to remain about the house or grounds, and whether the school house is well ventilated and kept comfortable, as the season may require; and where it is necessary, provide and promptly apply the proper remedy. They shall also during such visits make such examination and inquiry as they may deem useful respecting the studies, discipline and general condition of the school, and the conduct and proficiency of the scholars; and give such directions or make such suggestions to the teachers, as in their opinion, will promote the interest of the school, and the health, morals and progress of the scholars.

Trustees may visit school; when.

Their duties during such visits.

15. They shall cause the school houses under their charge and everything pertaining thereto, to be kept in good order and repair, and for this purpose it shall, among other things, be their duty to cause proper suits and prosecutions to be instituted, in the name of the board of education of the district or otherwise, against every person who shall injure or destroy any school property of which the said trustees have charge; and they shall not, without the permission of the district board of education, allow said school houses to be used for any other purpose whatever, except for the purpose of holding religious or literary meetings and Sunday schools, equally by the various religious denominations that may apply for the

Trustees must cause school houses, etc., to be kept in good repair, etc. To this end must prosecute proper suits, etc.

Not to permit school houses to be used, etc., except for, etc.



<p>Estimates of improvements to be furnished board.</p>	<p>same, under such regulations as to the care thereof as may be prescribed by them. The trustees shall furnish to the board of education estimates of all improvements necessary to the preservation or repair of buildings, grounds and furniture under their charge.</p>
<p>Trustee to keep account of expenses. To render such account to secretary of board; when.</p>	<p>16. The trustees of each sub-district shall keep exact accounts of all necessary expenses incurred by them in the performance of their duties, and render to the secretary of the board of education, at or before their last meeting for the current school year, written accounts, by items, of all such expenses; which, if the board find correct, they shall pay by an order to the sheriff, drawn on the building fund of the district, signed by the secretary and president. The trustees of any sub-district may purchase fuel, water buckets, brooms, coal hods, shovels, pokers, stove pipes, and dippers, for use in school rooms. They may make such repairs in windows, doors, benches, desks, floors, walls, ceilings and roofs as will render the house comfortable. For such purchase or repairs they shall render to the secretary of the board of education an account, which if the board find correct, they shall pay out of the building fund of the district.</p>
<p>How paid.</p>	
<p>To purchase necessities for school room.</p>	
<p>May make repairs.</p>	
<p>Account in such cases to be rendered to secretary of board; how paid.</p>	

*Colored Schools—Provisions Relating To.*

<p>White and colored persons not to be taught in same school.</p>	<p>17. White and colored persons shall not be taught in the same school; but to afford to colored children the benefits of a free school education, it shall be the duty of the trustees of every sub-district to establish therein, one or more primary schools, for colored persons between the ages of six and twenty-one years, whenever the number of such persons residing therein, and between the ages aforesaid, exceeds fifteen according to the enumeration made for school purposes. The trustees of two or more sub-districts, whether in the same or adjoining districts or counties, may, by agreement with each other, join in establishing a primary school for colored children residing in said sub-districts, and such school so established shall be subject to the same regulations as are provided for the schools for white children, in section twelve of this chapter.</p>
<p>Colored schools; when and how established.</p>	
<p>How established by trustees of two or more sub-districts.</p>	
<p>School funds for colored children to be set apart; when and in what cases.</p>	<p>18. Whenever, in any school district, the benefit of a free school education is not secured to the colored children residing therein, in the manner mentioned in the preceding section, the fund applicable to the support of free schools in such sub-district, whether received from the state or local taxation, shall be divided by the board of education in the proportion which the number of colored children bears to the number of white children therein, according to the latest enumeration made for school purposes; and the share of the former shall be set apart for the education of colored persons of the proper age, residing in such sub-district or district, and be applied for</p>

that purpose from time to time in such way as the board of education of the district may deem best. Any board of education failing to comply with this section may be compelled to do so by the circuit court of the county, by *mandamus*. If board fail to do so, how compelled.

*Enumeration of Youth.*

19. The board of education of each district and independent school district shall require the teacher or teachers in each sub-district or independent school district, annually, before the close of the school or schools, not later than the first day of April, to make an enumeration of all the youths resident in such sub-district or independent school district, who shall be over six years and under twenty-one years old, on the first day of July following, distinguishing between male and female, white and colored. The enumeration shall be taken in two classes as follows: One class shall contain all youths between the ages of six and sixteen years, and the other youths between sixteen and twenty-one years respectively. The enumeration shall be verified by the affidavit of the teacher who took the same, before some person qualified to administer oaths, to the effect that he used all means in his power to make it, and believes it to be correct, and shall return such enumeration to the secretary of the board of education of the district with the term report of such school, or not later than the first day of April; and unless such enumeration be properly taken and returned, the teacher shall not be entitled to demand payment of the balance due on his salary, or so much thereof as shall be necessary to defray the expenses of the enumeration as hereinafter provided. No teacher in this state shall be required to serve on any jury nor to work on the roads, while his school is in actual operation. The secretary of the board of education shall keep a record in his office of the enumeration of youth so taken, and shall annually, on or before the fifteenth day of April, transmit a certified copy of such enumeration to the county superintendent of his county. When such enumeration for any district or sub-district shall not be received by the county superintendent before the twentieth day of April in any year, it shall be his duty, without delay, to employ a competent person to take and verify the same as aforesaid. The person taking and verifying such enumeration shall be paid a reasonable compensation to be allowed by the board of education, not to exceed two dollars per day for the time necessarily consumed, and paid by an order of said board, signed by the president and secretary, out of the building fund of such district. In either case the county superintendent as soon as he receives the enumeration for any district or independent school district, and not later than the first day of May, shall forward to the state superintendent of free schools a statement of the number of Annual enumeration of youths; when and how made  
How enumeration verified.  
When and to whom returned.  
Penalty on teacher for failure to make and return enumerators.  
Teachers exempt from jury service and road work; when.  
Enumeration to be recorded by secretary.  
To transmit certified copy to county superintendent; when.  
County superintendent to employ person to take enumeration; when. His compensation and how paid.  
Statement of enumeration to be forwarded to State superintendent; when.

Blanks for enumeration; who to furnish

youths of school age therein. The state superintendent of free schools shall prescribe and furnish all blanks to be used for taking the enumeration of youth.

*Reports to Be Made.*

Annual report of trustees; when made and what to contain.

20. The trustees of each sub-district shall make a report to the secretary of the board of education of their district, at or before their last meeting in each school year, setting forth in reference to their sub-district, the following particulars, that is to say: The condition of school houses under their charge; the value and kind of apparatus; the number of volumes in school libraries and their value, with such explanations, remarks and additional information as the said trustees may deem useful, or as the blanks furnished by the state superintendent of free schools may require. They shall also report the same particulars in relation to any schools under their charge for colored persons.

Report as to colored schools.

Secretary of board to revise report of trustees.

If defective, to be returned for correction.

Annual report of secretary of board of education; when and what to contain.

21. The secretary of the board of education to whom the report of the trustees shall have been made as provided in the twentieth section, shall revise the said reports, and if they be found erroneous or defective, may return them for correction. From the corrected report and the teachers' registers, provided for in the thirtieth section of this chapter, and such other authentic information, as he may be able to obtain, he shall make a report to the county superintendent on or before the twentieth day of July, annually, in tabular form, by sub-districts, embracing each particular reported to him by the said trustees' reports and teachers' registers, and showing the aggregate or average of each, as the case may require, for his district. And he shall further report to the county superintendent on or before the twentieth day of July, annually, the following additional particulars in reference to his district, for the year ending on the preceding thirtieth day of June, that is to say: The rate and amount of the tax levied for the teachers' fund and the building fund, respectively; the amount of such taxes collected and placed to the credit of each of these funds; the amount received from the state for the teachers' fund; the amount of the balance in the treasury at the beginning of the school year for each fund; the amount of receipts from all other sources placed to the credit of each fund; the amount expended for the pay of teachers, male and female, white and colored, respectively; the amount of commission paid to the sheriff or collector; the amount of the delinquent list returned by said collector; the amount of the balance in hand at the close of the school year for each fund; the amount expended for the purchase of sites for school houses, and for the construction and furnishing of the same; and for the

rent, hire and repair of such property; the amount expended for such furniture, for apparatus, for interest, for the enumeration of youth, and for contingencies; also, the number of volumes in school libraries and their value; total receipts; total expenditures, with such explanations, remarks and additional information as he may deem proper, or as the blanks furnished by the state superintendent may require. He shall also, in like manner, report all particulars pertaining to any colored school or schools in his district, including the number taught therein, and for what length of time. For this report the secretary shall be allowed out of the building fund, in addition to his salary as secretary, ten dollars; but the board of education shall in no case order this sum to be paid until the county superintendent has certified to them that the said report has been made, and that it is correct and complete, and made within the time specified in this section.

His compensation for making report; when and how paid.

22. The county superintendent shall receive and revise the reports made to him as aforesaid, and see that they are in proper form and according to intent of law; and when deficiencies or errors are found to exist, shall return them for correction. From these reports and such other authentic information as he can obtain, he shall make report to the state superintendent of free schools, on or before the first day of August, annually, or as soon thereafter as possible, setting forth in reference to each district of his county, for the year ending on the preceding thirtieth day of June, the several particulars mentioned in the twentieth and twenty-first sections, with the proper aggregate or average of each for the county; and shall make the apportionment, and report such apportionment to the auditor, and also report whether the districts have made the levy for school purposes required by this chapter.

Duty of county superintendent upon receiving reports of secretaries.

Annual report of county sup't to state sup't; when and what to contain.

His report to auditor.

*School Year.*

23. The school year shall commence on the first day of July, and close on the thirtieth day of June, and all reports, accounts and settlements respecting the free schools of this state shall be made with reference to the school year.

School year; when to commence and when to close. Reports, etc., to have reference to.

*High Schools—Graded Schools.*

24. When the board of education of any district deem it expedient to establish a high school, they shall submit the question to the votes of the district on the day and month of election named in section two of this chapter of any year, in the manner following, that is to say: The board shall prepare and sign a notice setting forth the kind of school proposed; the place where it is to be located; the estimated expense of establishing the same,

High schools; when and how established.

Notice; when and how given and what to contain.

- including cost of site, building, furniture, books and apparatus; and the estimated annual expense of supporting the school after it is in operation, with such other information concerning it as they may deem proper; and stating that the question of authorizing the establishment of such school will be submitted to the voters of the district, at the election specified in the notice, which they shall cause to be posted four weeks before the election in at least three of the most public places in the district. A poll shall thereupon be taken upon the said question, at the election specified in the notice, and the result ascertained in like manner as is prescribed in section two of this chapter. The ballots used in voting on the question shall have written or printed thereon the words "for the high school," or "against the high school." If it appear by the result of said poll that not less than three-fifths of the voters who voted on the question are in favor of authorizing the establishment of the said school, the board of education may then proceed to obtain the site and provide proper buildings, fixtures and improvements, and procure necessary furniture, books and apparatus for the said school, and to support the same after it is put in operation; for which purpose the board may annually levy an additional tax on the property taxable in their district, not to exceed in any one year thirty cents on every one hundred dollars valuation thereof, according to the latest assessment for state and county taxation. The said school shall be under the care and direction of the board of education of the district in which it is established.
- Poll; when and how taken, and result ascertained.**
- Ballots; contents thereof.**
- Three-fifth vote necessary to establish school.**
- Duties of board if school established.**
- What taxes they may levy in such cases.**
- What board to control school.**
- How high schools may be established by two or more districts jointly.**
- Notice.**
- Three-fifth of voters voting required.**
- What taxes may be levied in such cases, and how.**
- Directors for such schools; how appointed and removed.**
- If none be appointed; what then.**
25. In like manner, if the boards of education of two or more districts, whether in the same or different counties, deem it expedient to jointly establish and support a high school, they may submit the question of authorizing the same to the voters of their districts, separately, and in the manner prescribed in section twenty-four of this chapter, specifying in the notice the amount or proportion of the expenses which each district is to contribute; and if authorized by not less than three-fifths of the voters voting on the question in each district, may proceed jointly to establish and support the said school; and for that purpose the said boards may annually levy a tax on the property taxable in their respective districts, not to exceed in any one year the rate of thirty cents on every one hundred dollars valuation thereof. The said school shall be under the care and direction of directors, to be selected and removed from time to time in such manner as the boards of education concerned may agree upon, or when there is no such agreement, under the care and direction of the board of education of the district in which the school house is situated; and the boards of education concerned shall from time to time prescribe such

regulations as they may deem necessary respecting the school.

26. The board of directors who have the care and direction of the said school shall appoint, and may remove the teachers; shall fix their salaries; prescribe the branches of learning to be taught; the time the school shall be kept open; the ages and qualifications of the scholars to be admitted; admit scholars from non-contributing districts on such terms of tuition as they may deem proper; expel or suspend scholars when necessary; ascertain and certify the expenses of the school, of which they shall cause exact accounts to be kept; and prescribe all needful regulations respecting the school, subject, nevertheless, to any regulations respecting the same that may be prescribed pursuant to the preceding section. They shall annually report through their secretary on or before the twentieth day of July, to the superintendent of free schools for the county in which the school house is situated, such particulars respecting the schools as the state superintendent of free schools may require; and the county superintendent shall transmit the report, with such remarks, and additional information as he deems proper to the state superintendent. The boards of education of any district may also establish graded schools in towns, villages, and densely populated neighborhoods of their respective districts, employ teachers therefor and make such special regulations as may be necessary to conduct them. But in every such case involving additional taxation the matter shall be first submitted to a vote of the people and their consent obtained, as is prescribed in section twenty-four in case of a high school; *Provided*, That no additional levy for a graded school shall exceed in any one year fifteen cents on every hundred dollars of valuation.

Powers and duties of board of directors of such schools.

Their annual report to county sup't; when made.

Duty of county sup't on receiving report.

Graded schools; where and how established.

In case of additional taxation question to be submitted to vote of people. *Pro/iso*, limiting amount of additional levy.

*Examination of Teachers—Fee Therefor—Certificates to be Given—No Teacher to be Employed Without.*

27. There shall be in every county for the purpose of examining and certifying teachers, a county board of examiners, to be composed of the county superintendent, who shall be *ex-officio* president, and two experienced teachers, each of whom shall have received a number one teachers' certificate, or its equivalent, to be appointed by the presidents of the district boards of education, at a meeting for that purpose to be held at the county seat on the first Tuesday in June of every year, at which meeting a majority of said presidents, or any three thereof, shall constitute a quorum. The board of examiners shall each receive a compensation of three dollars per day for each day actually and necessarily spent in conducting the examinations, and for one day at each of the two stated examinations, required in section twenty-eight of this

County board of examiners for examining teachers. Of whom composed.

When and how appointed.

Compensation of board.

chapter, to be spent in consultation and preparation for their duties. This compensation shall be paid out of the fees received from the teachers examined, and shall in no case exceed the amount thereof. The county superintendent shall collect from every person who applies for examination a fee therefor of one dollar, out of which he shall pay the per diem of the board of examiners, and the expenses of the notice required by the twenty-eighth section of this chapter, and the balance, if any, he shall pay to the sheriff, to be placed to the credit of the distributable fund of the county received from the state, and distributed with it. He shall, at the end of each school year, make and return to the clerk of the county court, and also to the state superintendent, a detailed and certified account of the names of all applicants for examination; the amount of the fees received by him for the same; the amount paid out to the members of the board of examiners, and the balance, if any, placed to the credit of the distributable fund of the county as aforesaid.

**How paid.** Report to be made by county sup't to clerk of county court and state sup't as to examination of teachers, when.

**Fee for examining teachers; by whom collected. How disposed of.** 28. No teacher shall be employed to teach any public school of this state until he shall have presented to the trustees, directors, or board having charge of such school, a certificate, in duplicate, of his qualifications to teach a school of the grade for which he applies, the duplicate of which shall be filed with the secretary of the board of education of the district in which the school is situated, and so endorsed on the original by the secretary; and no salary shall be paid to any teacher unless such duplicate be filed as aforesaid. The board of examiners shall examine each candidate for the profession of teacher, who may apply to them, as to his or her competency to teach orthography, reading, penmanship, arithmetic, English grammar, geography and history, if the application be for a primary school; and if the application be for a higher school they shall examine the applicant as to his competency to teach the additional branches required for such schools, and if satisfied of the competency of the applicant to teach and govern such schools, and that he or she is of good moral character, and not addicted to drunkenness, they shall give a certificate in duplicate accordingly. The county superintendent shall keep a register of all certificates awarded by the board of examiners, stating the character and grade of certificate and the time when issued. No certificate shall be issued by the board of examiners except upon an actual examination, participated in by a majority of the board, or be of force except in the county in which it was issued, nor for a longer period than one year, and the board of examiners may, upon proper evidence of the fact, revoke the certificate of any teacher within the county, for any cause which would have justified the withholding thereof, when the same was granted, by giving ten days' notice to the teacher.

**No teachers employed without certificate of qualification in duplicate.**

**Where duplicate filed.**

**No salary paid unless so filed. Examination of applicants, by board, to teach primary schools. In what branches.**

**For higher school.**

**Certificates awarded to be registered; what to be stated.**

**Must be actual examination, etc. Certificate to have no force out of county nor longer than one year.**

**May be revoked; when and how.**

of their intent to do so. The board of examiners shall, at two stated periods in each year, agreed upon by themselves, of which they shall give due notice, hold public examinations, at which all applicants for certificates shall be required to attend; and should circumstances require it, the county superintendent may call extra meetings for the same purpose. County superintendents and members of the board of examiners may be employed to teach without the certificate required of other teachers. But should any member of a board of education or school trustee, be employed as a teacher, it shall vacate his office.

Board must hold two public examinations; when.

Extra meetings; when.

Members of board may teach without certificate. Employment as teacher vacates what office.

29. The following regulations shall be observed by boards of examiners with regard to examinations and granting teachers' certificates:

Regulations to be observed by board of examiners.

*First*—No applicant shall be admitted to an examination unless the board shall have reasonable evidence that he or she is of good moral character and temperate habits.

Applicant to be of good moral character, etc.

*Second*—No college diploma or certificate, or recommendation from the president or faculty of any college, normal school or academy, shall be taken to supersede the necessity of examination by the board of examiners; nor shall a certificate be granted to any applicant except after a careful examination upon each branch of study and upon the art of teaching.

College or normal school diploma, etc., not to dispense with necessity of examination.

*Third*—Boards of examiners and others herein authorized to confer certificates, shall state the teacher's grade of proficiency in each branch in which he is examined.

To state teacher's grade in each branch.

*Fourth*—They shall grade the certificates granted according to the following scheme, numbering them, according to the merit of the applicant, from one to three: A number one certificate shall indicate a grade of merit from eighty-seven to one hundred per cent.; a number two certificate a grade of seventy-seven to eighty-seven per cent.; a number three certificate a grade of sixty-seven to seventy-seven per cent. No teacher shall be employed in any free school of the state unless he shall hold at least a number three certificate: *Provided, however,* That colored teachers may, if necessary, be employed upon a grading to be determined by the board of education of the district.

Certificates to be graded from one to three. Merit of each number.

No teacher employed who is graded lower than No. 3. Proviso as to colored teachers

*School Register—School Month—Institutes.*

30. Every teacher shall keep a daily register, and make monthly reports to the secretary of the board of education of his district. He shall also keep a term register, in which shall be entered the date of the commencement and termination of every term of the school; the name and age of every scholar who attended the school during such term; the daily attendance, distinguishing between males and females; the branches taught, and the number of scholars engaged in each month in the study of each

Daily register and monthly reports by teachers. Term register; what to be entered therein.



State sup't to prescribe forms.	branch, and such other particulars as are necessary to enable the secretaries of the boards of education, or directors, to make the reports required of them. The state superintendent of free schools shall prescribe such forms and regulations respecting the register to be kept, and reports to be made by the teachers, as shall seem to him necessary.
At close of term; where register filed.	At the close of each term the register thereof shall be returned by the teacher to the office of the secretary of the board of education for the district, who shall file the same.
Penalty on teachers for failure.	and unless such register be properly kept and returned, the teacher shall not be entitled to demand payment of the balance due on his salary. Teachers shall be paid monthly, and by orders on the sheriff or collector, signed by the secretary and president of the board. Where any teacher has taught, according to his contract, for one month, the trustees for the sub-district in which he has so taught, shall certify the fact to the secretary of the district board, whereupon he shall receive from said secretary an order upon the sheriff, or collector of the county, signed by the secretary and president of the board of education, for one month's salary;
When and how teachers paid.	but in no case shall such order be given unless the monthly report containing the facts required in the preceding part of this section, to be shown in the term register, be first duly made out and returned to the secretary. The school month shall consist of twenty-two days, excluding Saturdays, all of which shall be devoted to teaching the school contracted for. As a means of improving the teachers and fitting them for more effective service in the free schools of the state, teachers' institutes shall be held annually throughout the state, one or more in each county; they shall be held during the months of May and June, and at such times and places as the state superintendent shall, with the advice of the county superintendent, direct, and shall continue each for one week of five days; they shall be conducted by experienced and skillful institute instructors, who shall be appointed by the state superintendent, but it shall be a part of the duty of the county superintendent, under the instructions of the state superintendent, to make all proper arrangements for the institutes, and to assist in conducting them. The instructors whom the state superintendent shall employ, as herein provided, shall each receive for his services, not more than twenty-five dollars for each institute he may instruct, to be paid out of the general school fund, on a proper order of the state superintendent, but the aggregate amount of such compensation for the whole state shall not exceed five hundred dollars. At the close of the institutes, as herein provided, and during the week following, the county board of examiners shall hold one of the two examinations prescribed in section twenty-eight. It shall be the duty of the state superintendent to prescribe the course of instruction of the
Teachers not paid unless monthly report made, etc	
School month; of how many days to consist.	
Teachers' institutes; when and how held.	
How long to continue. How conducted.	
Duty of county sup't as to such institutes.	
Compensation of instructors	
How paid.	
Limit to amount.	
Board to hold examination for teachers at close of institutes.	

institutes and the methods of conducting them, together with such other details connected therewith as he shall deem conducive to their usefulness and efficiency. Any teacher who shall fail or refuse to attend at least one institute annually, held under the provisions of this section, unless such teacher shall have an excuse therefor, sufficient in the judgment of the board of examiners to which such teacher may apply for examination, shall not be entitled to examination during the year within which such failure or refusal may have occurred.

State an<sup>d</sup> to prescribe course of instruction, etc., of institutes. If teacher fail to attend institute board may refuse to examine him.

*School Not to be Kept on Certain Days.*

31. In contracts with teachers, it shall be understood that school is not to be kept in operation for ordinary instruction on the first day of January, fourth day of July, or the twenty-fifth day of December, nor on any national or state festival or thanksgiving day; but the month or time mentioned in such contract shall nevertheless be computed as if the said days were included.

Holidays; on what days school not to be kept.

*General Duties of Teachers and School Officers.*

32. All teachers, boards of education, and other school officers are hereby charged with the duty of providing that moral training for the youth of this state which will contribute to securing good behavior and manners, and furnish the state with exemplary citizens. It shall also be the duty of every school trustee to see that the school house is kept clean and in good order, and that fires, when necessary, are made and kept therein, but no expense shall be incurred therefor, to exceed fifty cents per week, and the amount thus expended shall be certified by the trustees to the board of education, and shall, if correct, be paid out of the building fund of the district.

Teachers and school officers to provide proper moral training for pupils.

Trustees to cause school houses to be kept clean, etc.

Expense not to exceed, etc., and how paid.

*School House Furniture, Etc.—Exemption from Levy—Enforcement of Claims.*

33. The president of the board of education of every district shall, at least once a year, examine the school houses and school house sites in the district, and report the condition of the same to the board; and such as are, in their judgment, properly located and are sufficient, or can with reasonable expense be rendered so, shall be retained for the use of public schools, and the remainder, with the consent of the county superintendent, shall be sold at public auction or otherwise, by the board of education, and on such terms of sale as the board may order, and the proceeds added to the building fund; *Provided*, That the grantor or his heirs of any such school house site shall, if he or they so desire, have the same reconveyed to him or them, without the buildings thereon (if any), upon paying to the board of education the

Duty of president of board of education as to school houses, and sites.

Sale of such as are not suitable, etc.

How proceeds disposed of.

When and how grantor, etc., may have school house site reconveyed.

In case of such reconveyance, how buildings, if any, disposed of.

Not to apply to village, town or city.

How school houses and grounds provided by boards of education; where. Boards to improve grounds and provide furniture, etc. To be kept in good order, etc.

If they disagree as to location; what then.

Powers of boards of adjoining districts etc., as to erection of school houses jointly.

In whom title to such houses vested, etc.

Furniture, etc. to be supplied for such houses. Assessment for such schools, etc.; how made. Bond required of contractor for building, etc.

No school officer to be interested in contract for building, etc.

Penalty.

Plans of school houses to be approved by county sup't. To acquaint himself with

amount received by such grantor for such site; or in case no compensation was paid therefor, the same shall be so reconveyed free of charge. In case of such reconveyance, the building on such site (if any), shall be sold, as hereinafter provided, with privilege to the purchaser to remove it from off such site in a reasonable time. This proviso shall not be construed to apply to any school house lot within any village, town or city.

34. The board of education of every district shall provide by purchase, condemnation, leasing, building or otherwise, suitable school houses and grounds in their districts, in such locations as will best accommodate the inhabitants thereof, and improve such grounds and provide such furniture, fixtures and appliances for the said school houses as the comfort, health, cleanliness and convenience of the scholars may require, and keep such grounds, school houses, furniture, fixtures and appliances in good order and repair. *Provided*, That in case such boards of education shall be unable to agree upon a proper location for a school house in any sub-district, such location shall be decided by the county superintendent. Boards of education in adjoining districts or counties may jointly provide for the erection of school houses, for the accommodation of adjoining portions of districts or counties, for high schools, union school or sub-district schools, which, from local causes, cannot be conveniently attached to sub-districts in the districts or counties to which they belong. The title to such houses shall be vested in the board of education having supervision of the sub-district containing the greatest number of children, and terms indicating a trust for the purpose aforesaid shall be introduced into an agreement made between the boards of education interested. Such school houses shall be provided with furniture, fixtures and such other appliances as are supplied to school houses generally. An equitable amount shall be assessed on each district interested, by the respective boards of education, for the purpose aforesaid. Boards of education shall in every case require bond of all contractors, with approved security, in double the amount of the contract, for building or repairing school houses. No county superintendent, board of education, or any member thereof, or trustee of any sub-district, shall, directly or indirectly, become personally interested in any contract for building or repairing school houses in his or their district; and any county superintendent, member of such board, or any trustee, violating this section, shall be guilty of a misdemeanor and fined not less than one hundred dollars.

35. No school house shall be erected unless the plan thereof shall have been submitted to the county superintendent, and approved by him, and it is hereby made his duty to acquaint himself with the principles of school

house architecture, and, in all his plans for such structures, to have regard to economy, convenience, health and durability of structure.

principles of architecture.

36. When land has been designated by the board of education of any district as a suitable location for a school house and the necessary buildings, or for enlarging a school house lot, if the owner, or owners refuse to sell the same, or demand a price therefor which is deemed by the board unreasonable, or the owner is a *femme covert*, a minor, *non compos mentis*, or non-resident, after ten days' notice, served upon such owner or owners, or the owner or owners being non-residents thereof, by publication for four weeks in some newspaper published in the county, or if there be no newspaper published in the county, by posting the same for four weeks at the front door of the court house, and five other public places in the county, at least two of which shall be in the district and one in the sub-district in which such property is located, the board may petition the circuit court of their county to have such lots of ground condemned for the use of public schools, and such proceedings shall thereupon be had in the name of such board for the condemnation thereof, as provided for in chapter forty-two of this code; *Provided*, That the land so taken shall not exceed in quantity one acre.

Condemnation of land for school houses, sites, etc.

Notices; how given.

Petition for condemnation.

Proceedings in such cases.

Quantity of land limited.

37. All school houses, school house sites and other property belonging to any board of education and used for school purposes, shall be exempt from execution or other process, and from lien on, or distress for taxes or county levies; but when any order of the board, upon the sheriff of the county, or judgment or decree for a sum of money against the said board has been presented to such sheriff without obtaining payment, payment thereof may be enforced by the circuit court by *mandamus* or an order for a specific levy on the property taxable in the district.

All school property exempt from execution or distress.

Payment of district order; how enforced, etc.

*Building Fund—Annual Levy for the Same.*

38. To provide school houses and grounds, furniture, fixtures and appliances, and keep the same in good order and repair, to supply said schools with fuel and all other things necessary for their comfort and convenience, and to pay any existing indebtedness against the building fund and all other expenses incurred in the district in connection with schools, not chargeable to the "teachers' fund," the board of education shall, annually, on the first Monday in July, or as soon as practicable thereafter, levy a tax on the property taxable in each district, not to exceed, in any one year, the rate of forty cents on every hundred dollars valuation thereof, according to the latest assessment on the same for state and county taxation.

Fund for building school houses, etc., to be provided by board of education.

Also, to pay existing indebtedness.

Annual levy; when made.

Amount to be levied.

39. The proceeds of taxes so levied, of school houses and sites sold, of all donations, devises and bequests applicable

What constitutes "building fund."

Cannot be ap-  
propriated for any  
other purpose.

to any of the purposes mentioned in the preceding section, shall constitute a special fund to be called the "building fund," to be appropriated exclusively to the purposes named in the preceding section.

*Annual Levy for Support of Primary Schools.*

When and how  
annual levy for  
support of  
schools made.

40. For the support of the primary free schools of their district, and in each independent school district, and to pay any existing indebtedness against the "teachers' fund," the board of education thereof shall annually, on the first Monday in July, or as soon thereafter as practicable, levy, by the authority of the people, as prescribed in section two of this chapter, such a tax on the property taxable in the district as will, with the money received from the state for the support of free schools, be sufficient to keep such schools in operation at least four months in the year. *Provided*, The said tax in any year shall not exceed the rate of fifty cents on every one hundred dollars valuation, according to the latest available assessment made for state and county taxation. The proceeds of this levy, together with the money received from the state as aforesaid, shall constitute a special fund to be called the "teachers' fund," and no part thereof shall be used for any other purpose than the payment of the teachers' salaries; first, for the current year, and any part of said fund not so expended shall be appropriated to the payment of any existing indebtedness created for said purpose. Upon the failure of any board of education to lay such levy as is hereby required, or any other levy provided for in this chapter, they shall be compelled to do so by the circuit court of the county by writ of *mandamus*, unless good cause be shown to the contrary. But in case the levy provided for in this and the thirty-eighth section of this chapter shall not be sufficient to pay any existing indebtedness of the district, in addition to the other purposes for which it is levied, the board may increase such levy to the amount actually necessary, or lay a special levy for the purpose. And in no case shall the appropriation of any money to the payment of any existing indebtedness, directly or indirectly, interfere with the payment of teachers' salaries for the term of four months, for which the schools are required by law to be kept open in each year.

Amount to be  
levied.

Not to exceed  
fifty cents,  
etc.

What consti-  
tutes "teacher's  
fund."

How used.

Board com-  
pelled to lay  
levy by manda-  
mus; when.

If levy be in-  
sufficient, may  
be increased;  
how.

Payment of  
teachers' sal-  
aries not to be  
interfered  
with, etc.

*When and How School Kept More Than Four Months.*

When and how  
school kept  
longer than  
four months.

41. If the board of education of any district agree that the schools in their district should be continued more than four months in the year, or if twenty or more voters of the district ask it in writing, they shall submit the question to the voters thereof at a time specified in the order therefor, which order shall state also the length of time for which it is proposed to continue the schools. Ballots may be used

for voting on the question, on which may be written or printed "for — months' school," for those who are in favor of more than four months school; those who oppose a longer term than four months may vote with a ballot, having written or printed on it, "against more than four months school." And if the proposition for a longer term than four months have a majority of all the votes cast for and against, then the board may order the levy accordingly; *Provided*, That in any district where a poll is held for a purpose herein specified, notices of such election shall be posted by the clerk of the board of education in at least three public places in the district, three weeks before the day of voting; and the notice shall explicitly state the term of time for the school which is to be voted for, and only one term of time shall be voted for at any one election. The poll shall be held and the election conducted, and the official records returned as is prescribed in the second section of this chapter.

Ballots; what to contain.

Majority vote necessary.

Notice in such cases.

What notice to contain.

Poll; how held, etc.

42. No district or independent school district shall hereafter receive any share of the distributable state fund for free schools, in any year in which the levy required by the fortieth section has not been made in such district or independent school district; and any money heretofore or hereafter distributed, and undrawn and remaining credited on the books of the auditor to any such district or independent school district on the thirtieth day of June in each year, shall, on that day, be transferred on the books of the auditor to, and form a part of, the general school fund to be distributed.

State fund not to be drawn till levy made.

Money distributed and not drawn reverts to general school fund; when and how.

43. The assessor of every assessment district shall make out and deliver to the secretary of the board of education of each district and independent school district in his district, on or before the first day of July in each year, a certificate showing the aggregate value of all personal property; and the clerk of the county court shall certify to the said secretary the aggregate value of all real estate in such district or independent school district, which certificates shall serve as a basis for any levy that may be made for school purposes for that year.

Assessor must deliver to secretary certificate of value of personal property; when.

Clerk of court to certify value of real estate.

Such certificates to serve as a basis for levy.

*Board of Education to Report rate of Taxation to Assessor, and Assessor to Extend same in his Books—Penalty for Failure, &c.*

44. Immediately upon the receipts of the certificates mentioned in the preceding section, and of the notice from the county superintendent, as hereinafter provided, showing the amount of the general school fund to which such district, or independent school district, is entitled, it shall be the duty of the board of education of such district, to determine the rates of taxation necessary, for the pay of teachers and for the building fund in their district

Board of education to determine rates of taxation for teachers and building fund; when.



*Collections—Disbursements of School Levies—Settlements Therefor—No Credit to be Allowed Collector in Certain Cases.*

46. The sheriff or collector of the county shall receive, collect and disburse all school moneys for the several districts and independent districts therein, both that levied by said districts and that distributed thereto by the state. He shall be required by the county court to give, in addition to his bond as collector of the state and county taxes, a special bond, with approved security, in a penalty equal to double the amount of school money which will probably come into his hands for school purposes during any one year of his term of office, which shall be made payable to the state of West Virginia, with one or more sureties deemed sufficient by such court, and proved or acknowledged before such court, and an order stating such proof or acknowledgment shall be entered of record by such court. He shall keep his accounts with the several boards of education of each district and independent school district; one of money belonging to the teachers' fund, and the other of money belonging to the building fund, and shall credit every receipt and charge every disbursement to the fund to which it belongs. He shall pay out no money standing to the credit of the board of education, except upon an order signed by the secretary and president thereof, specifying the sum to be paid and the fund to which it is to be charged; or upon a certified copy of a judgment, or a decree of a court or justice against the said board, for a sum of money therein specified; or upon an order of the county superintendent, as provided in section eight of this chapter. He shall, on or immediately before the first day of July in each year, settle with the board of education of each district and independent school district, in which settlement he shall be charged with the amount of taxes levied by the board of education upon the property of the district or independent school district, for the teachers' fund and the building fund, and to pay any indebtedness of the district, and with the amount distributed thereto from the general state fund, and for any other moneys received by him during the current year on account of the free school of such district or independent school district; and he shall be credited with the amount of delinquent school taxes of such district or independent school district that has been duly returned by him and certified by the clerk of the county court to such board of education. He shall also be credited in such settlement with all vouchers produced by him, if found to be correct by the district board of education, and he shall receive no other credit except his commission as hereinafter provided; an account of this settlement shall be made out by each board of education,

Sheriff, etc., to collect and disburse all school moneys.

To give additional bond.

Penalty of bond.

How made payable.

How proved and acknowledged.

To keep two accounts.

How money paid out by him.

Annual settlement, when and with whom made.

With what charged and with what credited.

Settlement to be made with each district.





The delinquent lists of personal property shall be in form or in substance as follows: Form required for personal property.

"Lists of personal property in the district of —, in the county of —, delinquent for non payment of school taxes thereon for the year —.

Name of Person.	Total value of Personal property charged.	Teachers fund.	Building fund.	Special levy.	Why returned delinquent.		

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

*Lists—When and where Returned—Dispositions thereof.*

48. The said lists shall be returned to the county court, before the first day of July in every year, and the list of real estate shall be examined, corrected and allowed by said court, and a copy thereof certified to the auditor, and another copy to the assessor, for future use in making out the next land book. The list of personal property shall also be examined, corrected, and allowed by the court, and the amount thereof so allowed, together with the amount allowed of the list of real estate, shall be certified by the clerk of said court, to the secretary of the board of education of the proper district. The original list shall be preserved by the clerk of said court, in his office. Lists to be returned to county court; when. Court to correct, etc., list of real estate and certify copies to auditor and assessor. Also, list of personal property and certify copy to secretary of board. Original lists to be preserved by clerk.

*Return of Delinquent Real Estate for Sale.*

49. The auditor shall include the school taxes, on real estate so returned delinquent, in his lists to be furnished the sheriff for sale for delinquent taxes. Duty of auditor as to taxes returned delinquent on real estate

*Lien on Real Estate for Levies.*

50. There shall be a lien on all real estate for the district levies assessed thereon, from the day fixed by law for Lien on real estate for district levies, and

interest; from what time.

the commencement of the assessment of taxes therein for such year, and interest upon such levies, at the rate of six per cent per annum, from the twentieth day of January in the year following that in which the assessment is made, until payment.

*List of Personal Estate—How Disposed Of.*

Delinquent list of personal property to be placed by clerk in hands of sheriff. How collected and accounted for. Within what time.

51. A copy of the list of personal property, returned delinquent for the non-payment of district levies, shall be placed, by the clerk of the county court in the hands of the sheriff, or collector, for collection, to be collected and accounted for by him, in the same manner as for levies originally placed in his hands for collection; and he may collect such levies by distress or otherwise, at any time within two years after they are so placed in his hands.

*Sheriff's Commissions for Collecting School Levies—Annual Settlement, when to be made—Penalty for Failure to Make, &c.*

Commission of sheriff for collecting levies.

Annual settlement with county court; when.

What settlement must show.

Settlement to be recorded by clerk.

Accounts and vouchers to be filed by clerk; how.

Penalty on sheriff for failure to make settlement.

Also, to pay 12 per cent interest.

Proceedings to recover fine.

52. Every sheriff, or collector, shall be allowed three per cent commissions on the collection of all district levies for free school purposes. In addition to the settlements required to be made with each board of education of a district, every sheriff, or collector of school moneys, shall also make annual settlements, by districts, with the county court of his county, at its next term after the first day of July of each year, showing the amount of all moneys received and disbursed by him for the preceding year for school and building purposes from state, and from the district and independent school district funds, and the amount due to each district; which settlement shall be made a matter of record by the clerk of said court, in a book to be kept for that purpose. All accounts and vouchers required to be returned to the clerk of the county court by section forty-six of this chapter, shall be filed by said clerk in his office, and the file of each district shall be kept separate. If any sheriff or collector of school moneys, shall fail to make the settlement required by this section at the time required, he shall forfeit fifty dollars to the general school fund, and a like penalty shall be incurred by him for each subsequent term of the court that shall pass without such settlement. And the sheriff, or collector, shall, moreover, be charged with twelve per cent interest on all school moneys in his hands for the time he is in default in making the settlement required in this section, which interest shall be charged up against him when the settlement shall be made. When the sheriff, or collector, shall fail to make this settlement at the time required herein, it shall be the duty of the prosecuting attorney to proceed by action against him and his securities in the circuit court, to recover the fine imposed upon

him by this section. Every sheriff, or collector, shall, moreover, be liable to any person injured in consequence of his failure to make the settlement herein required. This settlement shall extend back to the time when the sheriff became collector of district levies for school purposes. If any board of education fail to make the settlements required by section forty-six of this chapter, with the sheriff, when requested by him to do so, each member of such board so failing or refusing shall be fined twenty dollars, for the benefit of the school fund. The clerk of the county court shall transmit an abstract of the settlement to the state superintendent of free schools within ten days after the same has been made.

Liability of sheriff to person injured.

What time settlement to cover.

Fine on board of education for failure to make such settlement with sheriff when requested. To go to school fund.

Abstract of settlement to be sent to state superintendent; by whom and when.

*County Superintendent of Schools—His Qualifications, Duties and Compensation.*

53 The county superintendent of schools shall be a person of good moral character, of temperate habits, literary acquirements, and skill and experience in the art of teaching. He shall receive for his services an annual compensation, as follows: In counties having not more than fifty schools, one hundred and fifty dollars; in counties having more than fifty and not more than seventy-five schools, two hundred dollars; in counties having more than seventy-five and not more than one hundred schools, two hundred and fifty dollars, and in counties having more than one hundred schools, three hundred dollars, which salary shall be paid ratably for any shorter term of service than one year. Such compensation shall be paid quarterly, upon orders drawn by the county superintendent, on the state superintendent of free schools, who shall, upon receiving the same, draw his warrant upon the auditor therefor, payable to such county superintendent, or to such person as he may direct. But the final payment shall not be made, until the county superintendent has made the reports required of him to the state superintendent of free schools. The same shall be paid out of the general school fund, but the amount thereof, shall be deducted by the auditor from the amount next to be distributed to each county. He shall, before entering upon the duties of his office, execute a bond, conditioned according to law, before the county court of his county, or the clerk thereof in vacation, in the sum of five hundred dollars, with approved security, upon which bond, he shall be liable, in any court having jurisdiction, to any person or persons, or to any board of education, for losses sustained by reason of his neglect, or non-performance of duties imposed by this chapter. Said bond shall be filed in the office of the clerk of the county court, who shall, within five days, certify to the state superintendent of free schools, the name of said county superintendent, and his postoffice address. *Provided*, That the county superin-

County superintendent; his qualifications.

His compensation.

How paid.

Final payment not to be made until, etc.

Out of what fund paid.

Amount deducted, etc.

His bond and conditions thereof.

His liabilities on such bond.

Where filed. Clerk to certify to state superintendent name and address of county superintendent; when.

Provision as to county superintendents heretofore elected. Vacancy, how filled, when and for what time.

tendents heretofore elected, shall continue in office, until their successors shall have been elected and qualified under this chapter. A vacancy in the office of county superintendent, shall be filled for the unexpired term, by the presidents of the boards of education in the county, at a meeting to be called for that purpose, by the clerk of the county court, at the court house of the county, within thirty days after the vacancy occurs. A majority of said presidents shall be necessary to constitute a quorum at such meeting.

Quorum for such purpose.

Visit to schools by county superintendent.

His duties in connection with such visits.

54. The county superintendent shall visit each school within his county, at least once in each school year, at such time as he may deem necessary and proper, and note the course and method of instruction, and the branches taught, and give such directions in the art of teaching, and the method thereof, in each school, as to him shall seem necessary or expedient, so that uniformity in the course of studies and methods of instruction employed shall be secured, as far as practicable, in the schools of the several grades, respectively. He shall acquaint himself, as far as practicable, with the character and condition of each school, noting any deficiencies that may exist, either in the government of the school, the classification of its scholars, or the method of instruction employed in the several branches, and shall make such suggestions, in private, to the teacher, orally, or by writing, as to him shall appear to be necessary, to the good order of the schools, and the progress of the scholars. He shall note the character and condition of the school houses, the sufficiency or insufficiency of their furniture and fixtures, and shall make such suggestions to the several boards of education and trustees, as in his opinion, shall seem conducive to the comfort and progress of the scholars in the several schools.

#### *Formation of County and Union Institutes.*

Duty of county superintendent to aid teachers, etc.  
Encourage county institutes.  
To attend such institutes, etc.

To encourage union institutes, etc.

Must conform to instructions of state superintendent.

55. It shall be the duty of the county superintendent to aid the teachers in all proper efforts to improve themselves in their profession. For this purpose, he shall encourage the formation of county institutes for mutual improvement; shall attend the meetings of said institutes whenever practicable, and give such advice and instruction, in regard to their conduct and management, as in his judgment will contribute to their greater efficiency. In connection with superintendents of the adjoining counties, each county superintendent shall encourage the formation of union institutes; shall attend and participate in the exercises of the same, as far as practicable; and shall use all proper means to improve the efficiency of the teachers, and to elevate their profession. He shall at all times conform to the instructions of the state superintendent of free schools, as to the matters within the juris-

diction of the said superintendent, and shall serve as the organ of communication between him and the several district boards of education. He shall distribute from his office all blanks, circulars, copies of school laws and other communications from the state superintendent to the several boards and persons entitled to receive the same.

To serve as organ of communication.

To distribute all blanks, etc.

*Additional Reports by County Superintendents.*

56. In addition to the reports mentioned in the twenty-second section, it shall be the duty of the county superintendent to make out and transmit to the state superintendent of free schools a detailed report of the condition and character of the schools within his county, noting all deficiencies and suggesting their remedies, with such remarks upon the operations of the school laws as his experience and observation may suggest, pointing out wherein he considers them deficient. He shall also report such districts as have failed to make returns of the enumeration of youth as required in the nineteenth section of this chapter; and also those districts that have failed to make the levy required in section forty. It shall be the duty of the county superintendent to make, in a well-bound book to be kept for the purpose, a record of all his proceedings; of all certificates issued by the board of examiners, and of all reports made by him, which book shall be the property of the office; and all out-going county superintendents shall make the report required for each year of their service.

County superintendent; what additional reports to be made by, to state superintendent what to contain.

Also, to report failure to make levy and enumeration.

To keep record of all his proceedings, etc. how.

Book to be property of office. To make report for each year of his service.

*School Officers not to act as Agents for Booksellers, etc.—School Books to be used.*

57. No school officer, or teacher of any free school, shall act as agent for any author, publisher, bookseller, or other person, to introduce or recommend the use of any book, apparatus, furniture or other article whatever, in the free schools of this state, or any one or more of them, or directly or indirectly contract for or receive any gift or reward for so introducing or recommending the same; nor shall such person be otherwise interested in the sale, proceeds or profits of any book or other thing used, or to be used, in said schools. *Provided*, That nothing herein shall be construed to apply to any book written, or thing invented by such person, or to merchants who, in connection with their business, may desire to sell school books or other things used in schools. *Provided, further*, That the same are embraced in the prescribed series.

No officer or teacher to act as agent for booksellers, etc. or be interested in any contract in relation to books, etc.

Proviso, as to authors, etc. and merchants.

58. The following series of class books shall be used in the free schools throughout the state, viz:

Class books to be used specified.

*Reading, Spelling, Elocution*—McGuffey's new revised readers; McGuffey's new eclectic spelling book; Kidd's elocution and vocal culture.

*Mathematics*—Ray's arithmetic; Ray's test examples; Ray's elementary and higher algebra; Evans' school geometry for beginners; Robinson's new geometry and trigonometry; Robinson's surveying and navigation; Robinson's progressive table book.

*Grammar*—Harvey's grammar; Kerl's treatises for high schools.

*Geography*—Knote's geography of West Virginia; Mitchell's new revised geographies; Cornell's outline maps; Guyot's physical chart; White's class book of geography for examinations; lessons on the globe, by Mary. Howe Smith.

*History, Natural Science, Etc.*—Goodrich's common school history; history of the United States, by Holmes; Cook's stories of the old dominion; natural philosophy—Avery; philosophy of natural history—Ware and Smilie; rhetoric—Blair; chemistry (new edition)—Youman's; geography of the heavens—Burrill; astronomy (elementary)—Robinson; geology—Dana; mineralogy—Dana; botany—Gray; anatomy and physiology—Cutter; dictionary—Webster. It shall be the duty of the county superintendent to enforce, by all proper means, the use of the text books, which may be prescribed as herein provided, and to see that no others are introduced; and if any teacher shall violate the provisions of this section, he shall be subject to the fine prescribed in the fifty-ninth section of this chapter.

*Fine for Violating any of the Provisions of this Chapter.*

County superintendent to enforce use of school books prescribed. Fine imposed on teacher for violation.

Fine on officer or teacher for failure to perform any duty or for violating provisions of this chapter. How recovered. Liability for damages, etc., not affected by fine. Penalty on board for neglect of duty.

59. If any officer or teacher, fail to perform any duty required of him by this chapter, or violate any provision thereof, and there is no other fine or punishment imposed therefor, by law, he shall be fined not less than three, nor more than ten dollars, for every such offense. to be recovered before a justice of the peace of the county; and such fine shall not impair or affect his liability for damages to any person injured, nor the liability of himself and sureties on his official bond. If the board of education of any district or independent school district, fail to perform any duty required by this act, each member of such board shall be liable to the full penalty imposed by this section, unless he show that he was not guilty of any neglect or default in the premises.

*Annual Distribution by the State for Support of Free Schools.*

"The general school fund," from what source derived.

60. For the support of free schools, there shall be a state tax levied, annually, of ten cents on the one hundred dollars' valuation on all the real and personal property of the state, which, together with the interest of the invested school fund, the net proceeds of all forfeitures, confiscations and fines which accrued to the state during the pre-

vious year, the proceeds of the annual capitation tax, dividends on bank stock held by the board of the school fund, and the interest accruing on stock invested in United States bonds, shall be set apart as a separate fund to be called "the general school fund," and shall be annually applied to the support of free schools throughout the state, and to no other purpose whatever. It shall be distributed to the several counties in the state in proportion to the number of youth therein, according to the latest enumeration made for school purposes; but the auditor shall first deduct therefrom the aggregate salary of the state superintendent of free schools, and the necessary traveling and contingent expenses of his office, together with such other sums as may be required to be paid by him out of the general school fund. Fifty per cent of this distributable sum shall be paid on the fifteenth day of September, and the remainder on the fifteenth day of December, of each year, and in the manner provided in the sixty-first section of this chapter.

To what purpose applied.  
Distribution of.

What to be deducted.

When and how paid.

61. It shall be the duty of the auditor, on or before the tenth day of June, in each year, to ascertain the amount which is distributable among the several counties as aforesaid, and notify the state superintendent of free schools thereof, who shall thereupon ascertain the proper share of each county, and notify the auditor and each county superintendent, also, the amount deducted by the auditor from the share of his county on account of salary paid the county superintendent, as required by section fifty-four, which amount the county superintendent shall also deduct from the share of his county before making his distribution of the same among the several districts thereof. Upon receiving such notice, the county superintendent shall ascertain the proper share of each district, and independent school district, of his county, according to the number of youths therein, and give notice to the board of education of each district, and independent school district, in the county, of the amount of the general school fund due each, respectively, and that the same cannot be drawn by them until they have made the levy required by the fortieth section of this chapter.

Auditor to ascertain; and notify state superintendent of amount to be distributed; when.  
Duty of state superintendent thereupon.

Duty of county superintendent as to such fund upon receiving notice.

62. Upon being officially notified by the secretary of the board of education, in the manner provided for in the forty-fourth section of this chapter, that the board of education has authorized the levy for school purposes, the county superintendent shall issue his requisition on the auditor, payable to the order of the sheriff of his county for the amounts due such districts as may have made the levy aforesaid, which shall be paid in two equal installments, payable on the fifteenth days of September and December respectively; whereupon the auditor shall issue his warrant upon the treasurer in favor of the sheriff for

How state fund drawn by county superintendent, when.

How paid and when.  
Auditor to draw his warrant and indicate the



depository upon which treasurer's check must be drawn.

Form of requisition of county superintendent.

the amount of such requisition, indicating in writing upon said warrant the depository upon which the same shall be drawn, and the treasurer shall thereupon be authorized and required to draw his check upon the said depository for the said amount. The requisition of the county superintendent shall be in form or in substance as follows:

“OFFICE OF THE COUNTY SUPERINTENDENT OF FREE SCHOOLS.

County of ....., the ... day of ....., 18—  
Auditor of West Virginia,

Pay to the order of ..... sheriff of ..... county ..... dollars, the amount of state school fund apportioned to the district (or independent school district) of ..... in said county for the year 18—. And I hereby certify that said district (or independent school district), has made the levy required by law, for school purposes, and that said sheriff has given the bond required by law.

A— B—, County Superintendent of Schools.”

*State Superintendent of Free Schools.*

State superintendent to be elected.  
His term of office.  
His character and qualifications.  
His salary.

How paid.

To be reimbursed for expenses.  
Amount limited.

His residence.

To provide seal for office.  
Decisions, etc., how authenticated, etc.  
To sign requisitions, except, etc.

His duties in general.  
Has supervision of all county superintendents, etc.  
To give instructions, etc., as to elections, etc.

63. There shall be elected a state superintendent of free schools for the state, whose term of office shall be the same as that of the governor. He shall be a person of good moral character, of temperate habits, of literary acquirements, and skill and experience in the art of teaching. He shall receive annually the sum of one thousand five hundred dollars in payment for his services, to be paid monthly out of the school fund upon the warrant of the auditor. If in the performance of any duty imposed upon him by the legislature, he shall incur any expenses, he shall be reimbursed therefor. *Provided*, The amount does not exceed five hundred dollars in any one year.

64. The state superintendent shall reside and keep his office at the seat of government. He shall provide a seal for his office, and copies of his acts and decisions, and of papers kept in his office, authenticated by his signature and official seal, shall be evidence equally with the original. He shall sign all requisitions on the auditor for the payment of money out of the state treasury for school purposes, except as hereinafter provided.

65. The state superintendent shall be charged with the supervision of all county superintendents and free schools of the state, and see that the school system is carried into effect. He shall prepare and transmit to the county superintendents instructions how to conduct the elections prescribed in this chapter, to keep and transmit the official records and ballots thereof, and the manner of ascertaining and announcing the results, so as to conform the same to the provisions of this chapter, and also to such provisions of the general election laws of the State as may not be incon-

sistent therewith; he shall prescribe and cause to be prepared all forms and blanks necessary in the details of the system, so as to secure its uniform operation throughout the state, and shall cause the same to be forwarded to the several county superintendents, to be by them distributed to the persons entitled to the same. He shall cause as many copies of this chapter and other school laws in force with such forms, regulations and instructions as he may judge expedient, thereto annexed, to be from time to time published, as he may deem expedient, and shall cause the same to be forwarded to the county superintendents, to be by them distributed to the persons entitled to receive them.

To prescribe and have prepared blanks and forms and forward same to county superintendents.

To have school law, etc., published, and distribute same.

66. It shall be the duty of the state superintendent to aim at perfecting the system of free schools as established in the state; and for this purpose it shall be his duty to correspond with educators and school officers abroad, to acquaint himself with the various systems of free schools established in other states and countries, collate the results as exhibited in the reports of their several superintendents, and to use all efforts necessary to enable him to render available the combined results of the experience of other communities with his own experience and observation. He shall acquaint himself intimately with the peculiar educational wants of each section of the state, and shall take all proper means to supply them, so that the schools shall be as nearly as possible equal and uniform in grade throughout the state. He shall acquaint himself with the different systems and methods of instruction which may be introduced among educators, and shall explain and recommend such as experience and sound principles of education may have demonstrated to be valuable; and it shall be his duty to endeavor to render available to the people of this state all such improvements in the system of free schools and the methods of instruction, as may have been tested and proven by the experience of other communities.

To perfect system of free schools.

To correspond with educators, etc. and collate results of other countries.

To acquaint himself with the peculiar educational wants of each section of state, for what purpose. Also, with the different systems and methods of instruction, etc. To render available improvements in the system of free schools.

67. He shall, on or before the first day of January, of each year, make a report to the governor, to be by him transmitted to the next regular session of the legislature, in regard to the condition of free schools within the state, embracing all statistics compiled from the reports of the county superintendents, and such other authentic information as he can procure, which will be necessary to give a proper exhibit of the working of the system, together with such plans as he may have matured for the management and improvement of the school fund, and for the better and more perfect organization and efficiency of free schools; and likewise all such matters in relation to his office and to free schools, as he may deem expedient to communicate.

Annual report of State sup't to Governor; when and what to contain.

*Auditor.*

Annual report of auditor to governor and state sup't. as to condition of the school fund; when.

68. The auditor shall annually, before the first day of September, deliver to the governor and the state superintendent of free schools, each, a report made up to the first day of July next preceding, of the condition of "the school fund," with an abstract of the accounts thereof in his office, which report the governor shall lay before the legislature at its next regular session.

*Board of the School Fund.*

"Board of the school fund;" of whom composed. Their control of fund.

69. The governor, state superintendent of free schools, auditor and treasurer, shall be a corporation, under the name of "the board of the school fund," and shall have the management, control and investment of said fund, under the fourth section of the twelfth article of the constitution. The governor shall be president of the board, and in his absence the board may choose one of their number to preside temporarily in his place. The auditor shall be the secretary of the board. A faithful record shall be kept of all their proceedings, and a copy thereof, certified by the secretary of the board, shall be evidence in all cases in which the original would be. A majority of the board shall constitute a quorum for the transaction of business.

President.

Secretary.

Record of proceedings. Copies thereof as evidence.

Quorum.

Meeting of board; when and where held and how called.

70. A meeting of the board may be held at any time, upon the call of any member thereof, provided notice be given to all the members who may be at the seat of government. The auditor's office shall be the place of meeting, and the proceedings shall be signed by the president and secretary of the meeting for that day, and shall be open to inspection at all times.

Proceedings; by whom signed.

Money due fund; how recovered.

71. All the money which ought to be paid into the treasury to the credit of "the school fund" shall be recoverable with interest by action or motion in the name of said board, before any court having jurisdiction, and the attorney general shall institute and prosecute such action or motion when so directed by the board.

Duty of attorney general.

Board may appoint agents to collect, etc.

72. The board may appoint agents for the collection of debts or claims, and authorize them to secure payment thereof, and to protect the interests of the school fund, on such terms as it may approve. They shall take bond from said agent, if any money is to come into his hands; and any agent selling lands, when directed to do so by the board, shall execute a deed, (with the resolution giving such directions thereto annexed,) conveying to the purchaser by special warranty. Said agent may be allowed by the board a compensation not exceeding, in any case, five per cent on the money actually paid into the treasury.

Bond of agent.

How agent may execute deeds to lands sold by him.

Compensation; how paid.

*Permanent School Fund—How Invested.*

73. All such sums as have accrued, or shall hereafter

accrue to this state, from the several sources enumerated in the fourth section of the twelfth article of the constitution, shall be set apart as a separate fund to be called "the school fund," and it shall be the duty of the auditor to ascertain from time to time what sums have so accrued, or may hereafter accrue, and to pass the same to the credit of the said school fund; and it shall be the duty of the board of the school fund, from time to time to invest the same in the interest bearing securities of the United States, or of this state, or otherwise, provided for in said fourth section of the twelfth article of the constitution. And it shall be the duty of said board to sell any investments on account of the school fund now made in other securities, than those required in said fourth section of the twelfth article of the constitution, and invest the proceeds thereof in the interest bearing securities of the United States, or of this state, or otherwise, as provided in the constitution aforesaid.

"The school fund;" how created and from what sources derived. Duty of auditor as to such fund.

Board to invest fund.

Board to sell investments made in other securities than those now required, and reinvested.

74. The auditor shall be the accountant of the board, exercising any of their powers, except that he shall not, without special authority, entered upon the records of their proceedings, dispose of any property or invest any money of the school fund. He shall place the securities in which said school fund is invested in such depository for safe-keeping, as the board shall direct. All money belonging to "the school fund" shall be received into and paid out of the treasury upon the warrant of the auditor. But no warrant for paying out such money shall be issued without the authority of the board.

Auditor to be accountant of board. His power. Securities for money invested; where to be deposited. How money belonging to such fund paid into and out of treasury. Upon what authority warrant issued.

*City of Wheeling, Etc.*

75. Nothing in this chapter shall alter or affect the laws now in force respecting the free schools in the city of Wheeling, and the parts of districts connected therewith; nor shall anything in this chapter be construed as abolishing any independent school district heretofore created, or as affecting any right or privilege conferred upon them, respectively, in the acts of the legislature by which they have been created; except so far as such right or privilege may be inconsistent with the provisions of this chapter, in which independent school districts are specially included. In the independent school district of Wheeling, none but practical educators, who shall have had at least three years of practice as teachers in graded schools, shall be eligible to the office of superintendent.

Schools of Wheeling, etc., and independent school districts not affected by this chap. except, etc.

Who eligible to office of supt in district of Wheeling.

*West Virginia University.*

76. "The Agricultural College of West Virginia," located and established at Morgantown, in the county of Monongalia, in pursuance of the act passed February seventh, one thousand eight hundred and sixty-seven, enti-

Agricultural college to remain at Morgantown.

Provision as to laws relating to same.

tled "An act for the regulation of the West Virginia Agricultural College," shall be and remain as so established and located; and all the provisions of said act, except so far as the same may be altered by this chapter, shall remain in full force and effect to the same extent as if this chapter as amended had not been passed.

Name changed to "West Virginia University"

77. The name of said college shall hereafter be "The West Virginia University," by which name it shall have and hold all the property, funds, investments, rights, powers, and privileges now had and held under the name prescribed in the above recited act.

Property, etc., to be held under that name. Board of regents; how composed, appointed, and what name called. May she and be sued, etc. Three to be a quorum for transaction of business, except, etc.

78. For the government and control of the said university, there shall be a board of regents, consisting of one person from each senatorial district, to be appointed by the governor, as provided by law, to be called the "Regents of the West Virginia University." As such board, they may sue and be sued, and have a common seal. A majority of said regents shall constitute a quorum for the transaction of business, except that for making arrangements for the erection of buildings, or the permanent alteration thereof, or the appointment to or removal from office of professors, or fixing their compensation, or changing any rule or regulation adopted by a majority of the board, in which cases all of the regents shall be notified in writing by the secretary of the board, of the time, place and object of any meeting proposed to be held for any of the purposes excepted in this section; and the concurrence of a majority of the regents shall be required. The

Term of office of present board not affected by this act. When, how and what members to retire annually from board.

term of office of the members of the present board of regents shall be in no wise affected by this act. On the thirtieth day of June, annually, two of the regents now in office, shall retire from said board. Those appointed from the seventh and eighth senatorial districts, shall retire on the thirtieth day of June, one thousand eight hundred and eighty-one; those of the ninth and tenth districts, at the expiration of the following term, and so on in continuous rotation, following the order in which the said senatorial districts are numbered respectively. Vacancies in said board shall be filled by the governor as they occur, according to the foregoing regulations, or from any other cause.

Vacancies; how filled.

Powers and duties of board to establish departments of education, etc.

79. The board of regents shall from time to time establish such departments of education in literature, science, art, agriculture, and military tactics as they may deem expedient, and as the funds under their control may warrant, and purchase such materials, implements and apparatus, as may be requisite to proper instruction in all said branches of learning, so as to carry out the spirit of the act of congress aforesaid, approved July second, one thousand eight hundred and sixty-two.

To purchase materials, etc.

80. The said board shall establish and declare such rules and regulations and by-laws not inconsistent with the laws of this state, or the United States, as they may deem necessary for the proper organization, the tuition of students and good government of said university and the protection of public property belonging thereto. They shall appoint a superintendent of buildings and grounds who shall be the professor or person in charge of the military tactics, a secretary for the said board, and also a treasurer who shall be members of the faculty of the university, and who shall not receive any compensation for services as such superintendent, secretary and treasurer. No salary shall be paid to the secretary of the executive committee. From the said treasurer they shall take a bond with ample security, and conditioned according to law, for the faithful keeping and disbursing of such money as is herein, or may be hereafter appropriated, and such other money as may be allowed by said board to come into his hands from time to time; they shall also settle with him annually or oftener if they think best; inspect annually all the property belonging to said university and make a full report of the condition, income, expenditures and management of said university, annually, to the governor, to be by him laid before the legislature.

Board to declare and establish rules and regulations, etc.

To appoint sup't of buildings, etc.

Also, a treasurer and secretary.

No compensation allowed any appointee.

Bond of treasurer.

To settle with treasurer annually.

To inspect property annually.

To make annual report to governor.

81. The board shall have power to create a preparatory professorship to said university, and establish any other professorships than those indicated heretofore, if the same be deemed essential; to fix the salaries of the several professors, and to remove them for good cause, but in case of removal the concurrence of a majority of the regents shall be required, and the reasons for a removal shall be communicated in a written statement to the governor.

Board to have power to create preparatory department, etc.

To fix salaries of professors and remove them.

Reasons for removal to be reported to governor.

82. Besides prescribing the general terms upon which students may be admitted, and the course of their instruction, the said regents are still further empowered to admit as regular students or cadets of said university, from each senatorial district in the state, four or five, and not more than five young men who are not less than sixteen, nor more than twenty-one years of age, whose term of service shall not be less than two nor more than five years, to be appointed by the regent of each senatorial district; the admission in each case to be made upon undoubted evidence of a fair moral character. But should no application be made from any one or all of said senatorial districts, then the vacancies may be filled from the state at large; *Provided*, That no more than three cadets shall be appointed from any one county.

Powers of board as to admission of cadets.

Number from each senatorial district.

Term of service.

How appointed.

To be of fair moral character.

When appointed from state at large.

Number from any one county limited.

83. The cadets admitted under the provisions of the preceding section shall be entitled to all the privileges, immunities, educational advantages, and benefits of the university, free of charge for admission, tuition, books and

Privileges, etc., of cadets so admitted.

To constitute public guard.

stationery, and shall constitute the public guard of the university, and of the public property belonging thereto; and of the ordnance and ordnance stores, and camp and garrison equipage, of which a sufficient supply shall be kept in the arsenal belonging to the institution. And the professors and the students of the university receiving instruction in military tactics and the art of war, shall be individually and collectively responsible for the preservation and safe-keeping of all arms and camp equipage belonging to said institution.

Arsenal.

Who liable for safe keeping of arms, etc.

Expenses of regents; how paid, etc.

84. All reasonable expenses incurred by said regents in discharging the duties hereby imposed upon them (not, however, including wages or *per diem* compensation) shall be allowed by the governor and paid out of the treasury of the state, in like manner as other sums are drawn therefrom; *Provided, however,* That such expenditure shall not exceed five hundred dollars per annum.

Amount for expense limited

When and how students may graduate.

85. The president, board of regents and faculty may graduate any student of the university found (after proper examination) duly qualified, and shall certify the same by affixing the seal of the university to his diploma.

Funds derived from sale of land warrants donated by United States; how and by whom invested.

86. The fund derived from the sale of United States land warrants which have been donated to this state for the purpose of endowing an agricultural college, shall be invested by the governor in a loan of public stock of the United States, or otherwise, as required by congress, for the use and benefit of the said university.

#### *West Virginia State Normal School.*

State normal school to remain at Marshall college.

87. The "West Virginia State Normal School," established under and by virtue of the act passed February twenty-seventh, one thousand eight hundred and sixty-seven, entitled "An act for the establishment of a State Normal School," shall be and remain at Marshall College, in the county of Cabell, as provided in said act; and all the provisions of said act, and of all other acts in relation thereto, shall be, and remain in full force, except so far as the same may be altered by this chapter. For the government and control of said school and its branches, there shall be a board of regents, consisting of the state superintendent of free schools, together with one person from each congressional district of the state, to be appointed by the governor, who shall be called the "Regents of the State Normal School," and as such may have a common seal, sue, and be sued, plead and be impleaded, contract and be contracted with, and take, hold and possess real and personal estate for the use of said school. The transfer and conveyance by the board of supervisors of Cabell county of the lands and buildings of Marshall College, and of the real estate heretofore conveyed by the Central Land Com-

Provision of laws relating to.

Board of regents.

Governor to appoint three. How called. Power to sue and be sued, etc. Transfer, etc., of college to regents, and of estate conveyed by central land company, legalized and confirmed.

pany of West Virginia to the regents of said school heretofore appointed, is hereby accepted, confirmed and legalized. But in case the said school should at any time hereafter be removed from the said Marshall college, the said property so conveyed shall revert to and be vested in the county court for the use of the said county of Cabell.

When property to revert to Cabell county.

*Tenure of Office, Powers and Duties of Regents.*

88. The regents appointed by the governor as aforesaid shall hold their office during his pleasure. The said school shall be under the general supervision and control of the said regents. They shall have full power and authority to adopt and establish such by-laws, rules and regulations for its government as they may deem necessary and proper, to effect the object of its establishment, not inconsistent with the laws of this state. They shall fix the number and compensation of the teachers, and others to be employed therein, and appoint and remove the same; prescribe the preliminary examination of pupils, and the terms and conditions on which they shall be received and instructed in said school; the branches of learning to be taught in each department thereof; and shall determine the number of pupils to be received in the normal department of said school, from each county or judicial circuit of this state, conforming as nearly as possible to the ratio of population therein, and the mode of selecting them. The pupils admitted into the normal department of said school shall be admitted to all the privileges thereof, free from all charges, for tuition, or for use of books or apparatus; but every such pupil shall pay for all books, lost by him or any damage done by him to such books or apparatus; and any pupil in said school may be dismissed therefrom by said regents, or by the executive committee, subject to the approval of the regents for immoral or disorderly conduct, or for neglect or inability to perform his duties. The state superintendent of free schools shall prepare suitable diplomas to be granted to the students of the normal department of said school, who have completed the course of study and discipline prescribed by said regents. The said regents may establish a pay department in said school, whenever the accommodation thereof will admit of the same, and may admit into such department so many paying students as can be accommodated therein from this or any other state, giving preference to the citizens of this state, whether they desire to become teachers of schools or not. They may cause to be taught in the said department of said school, all or any of the branches of learning usually taught in colleges and seminaries, and for that purpose, may establish therein the necessary professorships. They may also make all the necessary rules and regulations for the government of the said department, and prescribe the tuition and terms of admission therein. The said school shall continue to be called and known by the name of "Marshall Colloge."

Term of office of regents appointed by governor. Regents to control school. Power to establish and adopt by-laws, etc.

To fix number and compensation of teachers, etc.

To appoint and remove same.

Prescribe terms, etc., on which pupils shall be received, etc.

Also, branches taught.

Also, number of pupils to be received in normal department, etc.

Privileges of normal students

May dismiss pupils, and for what.

Diplomas to students in normal department.

Pay department. Who admitted.

Branches taught.

Professorships.



Executive committee; how and who appointed

Duties of such committee.

Report of committee to regents.

89. The said regents shall appoint three intelligent and discreet persons, residents of the county of Cabell, who shall constitute an executive committee for the care and immediate management and control of said school, subject to the rules and regulations prescribed by the regents. Said committee shall (subject to the control of said regents), designate the person to take charge of the boarding department of said school and fix the price to be paid for board therein. They shall from time to time make full and detailed reports to said regents of the condition, working and prospects of said school, and shall do and perform such other duties in relation thereto as the said regents may from time to time prescribe.

*Branch of the State Normal School at Fairmont.*

Branch at Fairmont to remain at that place.

Provisions of law in relation to.

To be under jurisdiction of regents.

90. The branch of the state normal school established at Fairmont, under and in pursuance of the act passed March fourth, one thousand eight hundred and sixty-eight, entitled "an act providing for the purchase of the West Virginia normal school at Fairmont," shall be and remain at that place, and all the provisions of said act shall remain in full force, except so far as the same may be altered by this chapter. Said school shall be under the jurisdiction and control of the regents of the state normal school, in the same manner and to the same extent as the state normal school at Marshall College.

*Branch of the State Normal School at West Liberty.*

Branch at West Liberty to remain at that place.

Provisions of law in relation to.

To be under control of regents.

91. The branch of the state normal school established at West Liberty, under and in pursuance of the act passed March first, one thousand eight hundred and seventy, entitled "an act to establish a branch normal school at West Liberty, in Ohio county," shall be and remain at that place, and all the provisions of said act shall remain in full force, except so far as the same may be altered by this chapter. Said school shall be under jurisdiction and control of the regents of the state normal school, in the same manner and to the same extent as the state normal school at Marshall College.

*Branch Normal School at Glenville.*

Branch at Glenville to remain at that place.

Provisions of law in relation to.

Control of, etc., to remain with regents.

92. The branch of the state normal school established at Glenville, under and in pursuance of the act passed the nineteenth day of February, one thousand eight hundred and seventy-two, entitled "an act to establish a branch normal school at Glenville, in Gilmer county," shall be and remain at that place, and all the provisions of said act shall remain in full force, except so far as the same may be altered by this chapter. Said school shall be under the jurisdiction and control of the regents of the state normal school, in the same manner and to the same extent as the state normal school at Marshall College.

*Branch Normal School, at Shepherdstown.*

93. The branch of the state normal school established at Shepherdstown, under and in pursuance to the act passed and approved February fourteenth, one thousand eight hundred and seventy-two, entitled, "an act to establish a branch normal school at Shepherdstown, in the county of Jefferson," shall be and remain at that place, and all the provisions of said act shall remain in full force, except so far as the same may be altered by this chapter. Said school shall be under the jurisdiction and control of the regents of the state normal school, in the same manner and to the same extent as the state normal school at Marshall College.

Branch at Shepherdstown to remain at that place.

Provisions of law relating to

Control, etc., to remain with state regents.

*Branch Normal School at Concord.*

94. The branch of the state normal school at Concord, in Mercer county, established by the act passed the twenty-eighth day of February, one thousand eight hundred and seventy-two, entitled "an act to locate a branch state normal school at Concord, in the county of Mercer," shall be and remain at that place, and all the provisions of said act shall remain in full force, except so far as the same may be altered by this chapter. Said school shall be under the jurisdiction and control of the regents of the state normal school, in the same manner and to the same extent as the state normal school at Marshall College.

Branch at Concord to remain at that place.

Control of, etc., to remain with state regents.

*Providing for the Support of the Normal School and its Branches.*

95. The principals of the state normal school and its several branches shall make, at the close of each term thereof, to the president of the board of regents, in addition to the annual reports required of them, a report, under oath, of the number of non-paying normal school pupils, and the number of paying pupils in the several departments of the school in actual monthly attendance during said term.

Additional report of principals of normal schools to regents; when and what to contain.

96. The president of the board of regents of the normal school, upon receipt of the reports required in the ninety-fifth section of this chapter, shall furnish the auditor of the state with the number of the non-paying normal pupils in actual monthly attendance in each of the said normal schools, and the number of months of actual attendance, upon the receipt of which report, and on the requisition of the president of the board of regents, the said auditor shall issue to the executive committee of each of said schools, warrants upon the treasury of the state for the amount due said schools, at the rate of three dollars and fifty cents per month for every non-paying normal pupil reported as in monthly attendance, which said

Duty of President of regents as to such reports.

Duty of auditor on receipt of reports and requisition of President.

How amount apportioned and what to include.

Amount appropriated to each school limited.

Proviso as to schools for colored normal pupils.

Appropriation to pay and how paid.

Money appropriated and not drawn to revert to treasury.

Lending to or dealing on credit with students who are minors prohibited, except, etc.

Forfeiture, etc.

When principal or agent liable.

Acts repealed.

sum shall include tuition and the use of books and apparatus. *Provided*, That the aggregate amount so appropriated in one year to any normal school, shall not exceed the sum of two thousand dollars. *And provided, further*, That the state superintendent of free schools shall, if possible, in each year, make arrangements with some suitable institution of learning in this state for the education and normal school training of a number of colored school teachers, in the proportion to the colored population of the state which the non-paying white students in the normal schools bear to the white population of the state; but the amount to be paid for each of said colored teachers shall not exceed the sum herein specified for each non-paying white student; and an additional sum to the extent necessary to pay the tuition of said colored students, is hereby appropriated, payable out of the treasury of the state in each year, as provided for in the next section, upon the requisition of the state superintendent of free schools.

97. All moneys appropriated by law and not drawn as provided for in the ninety-sixth section of this chapter, before the end of the school year for which it is appropriated, shall revert to the state treasury.

#### *Dealings With Students Prohibited.*

98. If any money be lent or, advanced, or anything be sold or let to hire, on credit to or for the use of any student or pupil under twenty-one years of age, at the West Virginia University, the West Virginia State Normal School, or any of its branches, or any incorporated college in the state, without the previous permission, in writing, of his or her parent, or guardian, or the president or principal of such institution, nothing shall be recovered therefor, and there shall, moreover, be forfeited to the state, by the person giving such credit, twenty dollars, and the amount or value of such thing. When such selling, letting lending, or advancing is by an agent, such forfeiture shall be by his principal, unless the principal shall within ten days after he has knowledge or information of the selling, letting, lending, or advancing, give notice, in writing, of the date, nature and amount thereof to the president or other head of the institution, in which case the forfeiture shall be by the agent.

#### *Acts Repealed.*

2. All acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed.

E. W. WILSON,  
*Speaker of the House of Delegates.*  
 A. E. SUMMERS,  
*President of the Senate.*

OFFICE OF SECRETARY OF STATE, }  
 March 18, 1881. }

I certify that the foregoing act, having been presented to the governor for his approval, and not having been returned by him to the house of the legislature in which it originated, within the time prescribed by the constitution of the state, has become a law without his approval.

RANDOLPH STALNAKER, JR.,  
*Secretary of State.*

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.];

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

CHAPTER XVI.

AN ACT to amend and re-enact sections four, seven, ten, eleven and fourteen of chapter fifty-two of the Code of West Virginia, concerning corporations generally, and to repeal the act passed February five, one thousand eight hundred and seventy-seven, entitled "An act authorizing private corporations to purchase the stock or securities of railroad companies and to guarantee their debts."

[Passed March 10, 1881].

Be it enacted by the Legislature of West Virginia :

1. That sections four, seven, ten, eleven and fourteen of chapter fifty-two of the Code of West Virginia, be, and the same is hereby amended and re-enacted so as to read as follows :

4. Nevertheless, a mining, manufacturing, oil, salt or internal improvement company, may lay out a town not to include more than six hundred and forty acres, at or near their works, and sell lots therein ; and any corporation may take real estate, stocks, bonds and securities, in payment, in whole or in part of any debt *bona fide* owing to it, or as a security therefor, or may purchase the same if deemed necessary to secure or obtain payment of any such debt, in whole or in part, and may manage, use and dispose of what has been so taken or purchased, as a natural person might do ; and any corporation may compromise or purchase its own debt, and establish and manage a sinking fund for that purpose, and any manufacturing company may with the assent of the holders of two-thirds of its stock, had by a vote at a stockholders' meeting, subscribe for or purchase the stock, bonds or securities of any

Code amended.

Mining, manufacturing or improvement company may lay out town and sell town lots.

May purchase stock or bonds, etc., of manufacturing or railroad companies; how.

corporation formed for the purpose of manufacturing or producing any articles or material used in the business of such joint stock company, or dealing in any articles or materials manufactured or produced by such joint stock company, or constructing a railroad, or other work of internal improvement, through or into the county in which the principal place of business of such joint stock company may be, or operating a railroad or other work of internal improvement so constructed, and may, with the like assent, become surety for or guarantee the debts of such corporation, or in any manner aid it in carrying on its business.

May become the sureties for or guarantee the debts of such companies or aid in the construction of.

*Proceedings of a Company to Take Land Without the Owner's Consent.*

Proceedings of company to take land without the owner's consent.

7. If the president and directors of a company incorporated for a work of internal improvement cannot agree on the terms of purchase with those entitled to lands wanted for the purpose of the company, five disinterested freeholders shall be appointed by the circuit court of the county in which such land, or the greater part thereof, shall lie (three of whom may act), for the purpose of ascertaining a just compensation for such land. Lands owned by one internal improvement company, but not necessary for the enjoyment of its franchise, may be taken for the purposes of another internal improvement company, in the same manner as land owned by others, but where such lands are claimed to be necessary to the enjoyment of such franchise, the court appointing such freeholders may, before proceeding further, determine upon a report of such freeholders or otherwise, whether such necessity exists.

Commissioners to be appointed by circuit court.

How land owned by one company may be taken by another company.

Company not to occupy streets of town, etc. without consent of corporate authorities, etc.

10. No company shall occupy with its works the streets of the inhabited part of any city, town or village, until the corporate authority thereof shall have assented to such occupation, unless such assent be dispensed with by special provision of law.

*How one Work may be Crossed by, Altered to Suit or Connected with, Another.*

How one railroad may be crossed by or altered to suit another.

11. If any railroad, turnpike, or canal company deem it necessary in the construction of their work, or any branch or siding thereof to cross any other railroad, turnpike, or canal, or any state or county road, at grade or otherwise, it may do so, provided its work be so constructed as not to impede the passage or transportation of persons or property along the same. If any such company desire that the course of any other railroad, turnpike, canal, or state road, or any stream which is not a public highway, should be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof,

or the construction of a parallel work, the alteration may be made in such manner as may be agreed between the company desiring such alteration, and the other railroad, turnpike or canal company, or the board of public works in the case of a state road, or the owners of the land to be affected by the alteration of the course of such stream. In case the parties interested fail to agree upon such crossing or alteration as is desired, the company desiring it may bring its suit in equity, and in such suit the court may, in a proper case, decree that such, or any proper crossing or alteration may be made, upon payment of damages, to be ascertained as provided in chapter forty-two of the code, and the company desiring such crossing or alteration may thereupon proceed under said chapter to obtain the right to make such crossing or alteration. If such crossing or alteration as is allowed by this section shall cause damage to any company, or to the owner of any lands, the railroad, turnpike, or canal company first mentioned, shall pay such damages. But any county road may be altered by any such company for the purpose aforesaid, whenever it shall have made an equally convenient road in lieu thereof.

When parties cannot agree, how decided.

Who to pay damages, if any.

How county road altered.

*How Company may Take Materials From Land.*

14. A company incorporated for any work of internal improvement may, by its officers, agents or servants, enter upon any convenient lands, for the purpose of obtaining therefrom wood, stone, gravel or earth, to be used in constructing such work, or in repairing, enlarging or altering the same. But the company shall not cut down any fruit tree, or any tree preserved in any field or lot for shade or ornament, nor take part of any fence or building, nor take any of the said things from any lot in such town. Before taking any of the said things, the company, unless it agree therefor with those having right thereto, shall give to the tenant of the freehold, or his tenant for years, at least ten days' notice in writing, that at a certain time and place, to be specified in this notice, application will be made to a justice to appoint commissioners to ascertain what will be a just compensation for the same. At such time and place the justice shall appoint three disinterested freeholders as commissioners, who, after being sworn, shall view the premises, and report in writing the extent to which wood, stone, gravel or earth is proposed to be taken, the nature of the injury which may be done in cutting, quarrying, digging or carrying away the same, and what will be a just compensation therefor. The notice in writing, certificate of commissioners having been sworn, and their report shall be forthwith returned to the circuit court of the county. If upon such report being so returned, either party file exceptions thereto and demand

How company may take material from land for their use.

Exception as to fruit and ornamental trees.

Commissioners to ascertain compensation; how appointed.

Commissioners to be sworn and their report to be in writing.

Report to be returned to circuit court.

Exceptions to report.

that the question of compensation be tried by a jury, proceedings shall thereafter be had in the case as prescribed in chapter forty-two of the code. But if neither party demand a trial by jury, and good cause be shown against the report, or if the commissioners cannot agree, or fail to report within a reasonable time, the court may, as often as to it seems proper, appoint other commissioners, who shall act and report in the manner before prescribed. If the report be confirmed, then upon the payment to the person entitled thereto, or into court, of the sum so ascertained, the company may take and carry away the wood, stone, gravel or earth for which such compensation may have been allowed; and though the report may not be confirmed, yet upon the payment into court of the sum therein mentioned, it may proceed in like manner as if the report had been confirmed, and payment made of the sum thereby ascertained. Upon the coming in of a new report, after such payment into the court, the court, if it affirm the report, shall render judgment in like manner as in cases provided for in chapter forty-two of the code. From the time of any such judgment against the company, its right so to cut, quarry, dig, take or carry away, shall be suspended until the said judgment shall be satisfied.

Other commissioners may be appointed; when.

Proceedings on new report.

Right of company suspended until judgment satisfied.

Act repealed.

2. The act passed February 5, 1877, entitled "An act authorizing, private corporations to purchase the stock and securities of railroad companies and to guarantee their debts," is hereby repealed.

Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XVII.

AN ACT to amend and re-enact chapter fifty-four of the Code of West Virginia, concerning the incorporation of joint stock companies without special charter, and to repeal chapter eighty-eight of the Acts of one thousand eight hundred and seventy-two and three, concerning the incorporation of railroad companies, &c., approved April three, one thousand eight hundred and seventy-three, and chapter two hundred and fifteen of said acts,

passed December twenty-six, one thousand eight hundred and seventy-three.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That chapter fifty-four of the code of West Virginia, Code amended. be and the same is hereby amended and re-enacted, so as to read as follows :

CHAPTER LIV

Of the incorporation of joint stock companies in pursuance of article eleven of the constitution of the state.

*To what Chapter such Companies are to be Subject.*

1. Joint stock companies, incorporated under this chapter, shall be subject to the provisions of the fifty second and fifty third chapters of the code, so far as the same are applicable. Incorporation of joint stock companies without special charter, is what chapter subject.

*The Purposes for Which they May be Formed.*

2. Such companies may be incorporated for the following purposes: For what purposes such companies may be formed.

I. For manufacturing, mining or insuring.

II. For constructing and maintaining lines of magnetic telegraph, telephones, lines of piping, or tubing for the transportation of oils or other fluids; and carrying on the business properly pertaining to such works and improvements.

III. For establishing hotels and spring companies, gas works, water works, cometaries, or homesteads and building associations, and transacting the business properly pertaining thereto.

IV. For universities, colleges, academies, seminaries, schools, or institutes for the purpose of teaching any branch or branches of useful information, learning, or promoting religion, morality, military science and discipline, or the diffusion of knowledge, including library, companies and literary and scientific associations.

V. For agricultural and industrial societies.

VI. For benevolent associations, societies and orders, including orphan, blind and lunatic asylums and hospitals, lodges of Free and Accepted Masons, Independent Order of Odd Fellows, Improved Order of Red Men, Sons of Temperance, Good Templars, Knights of Pythias, and all other associations, societies, and orders of like character.

VII. For gymnastic purposes.

VIII. For railroads and other works of internal improvement.



IX. For banks of issue and circulation, and of discount and deposit, and of savings institutions.

X. And for any other purpose or business useful to the public, for which a firm or co-partnership may be lawfully formed in this state.

How chapter construed.

3. But this chapter shall not be construed to authorize the incorporation of any church or religious denomination, or of any company the object, or one of the objects, of which is to purchase lands and resell the same for profit.

#### *Of the Capital Stock.*

Capital stock; how divided into shares.

4. The capital stock shall be divided into shares, as prescribed by the fifteenth section of chapter fifty-three of the code.

Amount of capital stock.

5. The capital of a corporation formed under this chapter, except for railroad or canal purposes, shall not exceed one million dollars.

#### *The Mode of Incorporation and its Duration.*

How certificate of incorporation obtained.

Form of agreement to be entered into.

6. Any number of persons not less than five desiring to become a corporation for any purpose or business designated in the second section, except for railroad purposes, shall sign an agreement to the following effect: "The undersigned agree to become a corporation by the name of (here insert the name by which it is intended the corporation shall be known), for the purpose of (here describe fully and particularly the purpose for which the corporation is to be formed, and the kind of business intended to be carried on by it), which corporation shall keep its principal office or place of business at —, in the county of —, and is to expire on the — day of —. And for the purpose of forming the said corporation, we have subscribed the sum of — dollars to the capital thereof, and have paid in on said subscriptions the sum of — dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to — dollars in all. The capital so subscribed is divided into shares of — dollars each, which are held by the undersigned respectively as follows, that is to say: by (here insert the name of each incorporator, with his residence and the number of shares held by him). And the capital to be hereafter sold is to be divided into shares of the like amount. Given under our hands this — day of —."

No person a corporator until payment of ten per cent. etc.

7. No person shall be included as a corporator in any such agreement, by reason of any stock subscribed for by him, unless he has in good faith paid to the person who may have been appointed or agreed upon to receive the

same for the intended corporation, at least ten per cent of the par value of the said stock.

8. The agreement shall be acknowledged by the several corporators before a justice, notary or judge; and such acknowledgment shall be certified by the officers before whom they are made. If any such acknowledgment be made before a justice, notary, or judge of another state or county, proper evidence of the official character of the officer certifying the same, shall accompany his certificate. The affidavits of at least two of the corporators named in the agreement, shall be annexed thereto, to the effect that the amount therein stated to be paid on the capital has been in good faith paid in, for the purposes and business of the intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of the corporation.

Agreement must be acknowledged; how taken and certified, etc. Same if acknowledged out of State.

Affidavit to be annexed.

9. The agreement, with the acknowledgments and affidavits aforesaid, shall be delivered to the secretary of state, who shall thereupon issue to the said corporators his certificate, under the great seal of the state, to the following effect: "I, A. B., secretary of the state of West Virginia, hereby certify, that an agreement, duly acknowledged, and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following: (here insert.) Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date, until the — day of — a corporation by the name and for the purposes set forth in the said agreement. Given under my hand and the great seal of the said state at — this — day of —."

Agreement, etc., to be delivered to secretary of state; certificate to be signed by him.

Form of certificate of incorporation.

10. When a certificate of incorporation shall be issued by the secretary of state, pursuant to this chapter, the corporators named in the agreement recited therein, and who have signed the same, and their successors and assigns, shall, from the date of the said certificate, until the time designated in the said agreement for the expiration thereof, unless sooner dissolved according to law, be a corporation by the name and for the purposes and business therein specified. And the said certificate of incorporation shall be received as evidence of the existence of the corporation as aforesaid. Any corporation organized for any one or more of the purposes mentioned in the first and tenth subdivisions of the second section of this chapter, may, by resolution, concurred in by a majority of all the stockholders, representing a majority of the capital stock, and entered upon its records, at a meeting specially called for the purpose, of which all the stockholders shall have had notice, agree to and adopt a new agreement, so as to enlarge or diminish the objects and purposes, within the

Effect of such certificate when issued.

To be received as evidence.

Corporations organized for certain purposes, may enlarge or diminish their objects and purposes, or increase or diminish the number of shares; how and when.

No fractional share, etc. to be of unequal value.

How such new agreement acknowledged.

To whom delivered.

Certificate to be issued thereon

Certificate subject to such new agreement etc. Provisions of chapter to apply to such new certificate etc., except etc.

How long corporation may continue; exception.

limits of said two sub-divisions of section two, for which such corporation may have been organized; or so as to increase or diminish the number of its shares of capital stock, by consolidating or sub-dividing the same, but so that in no case shall any fractional share or shares of unequal value, be created. A copy of such resolution containing such new agreement, when acknowledged by such majority of the stockholders in the manner prescribed by the eighth section of this chapter, shall be delivered to the secretary of state, who shall thereupon issue his certificate, in the form prescribed in the ninth section of this chapter, so far as the said form may be found applicable; and from thence such corporation shall be subject to such new agreement and certificate. And all the provisions of this chapter, shall apply to such new certificates and to the corporations receiving the same in like manner, as to original agreements and certificates of incorporation, except as herein otherwise provided.

11. No corporation formed under this chapter, except life insurance companies and such as are formed exclusively for the purposes mentioned in the fourth, fifth, sixth, seventh, eighth and ninth clauses of the second section, shall continue for more than fifty years from the date of its certificate of incorporation.

*Existing Corporations may Accept this Chapter.*

Existing corporations, except, etc., may accept, etc., provisions of this and preceding chapter; how.

Resolution and statement to be filed with secretary of state. What statement to contain.

How certified.

Certificate to be issued thereon by secretary.

12. The stockholders of any incorporated joint stock company now existing in this state (banks of circulation and companies incorporated for the construction of works of internal improvement excepted) may, by resolution in general meeting, accept the provisions of this and the preceding chapter of the code. And thereupon a copy of the resolution shall be filed with the secretary of state, together with a statement showing the name by which the corporation had theretofore been known, and the name, whether it be the same or a different one, by which it is intended it should be known thereafter; the business to be carried on; the place where such business is to be carried on, and where the principal office is to be kept; the time when the corporation is to expire, subject to the limitation contained in the eleventh section of this chapter; the amount of the whole capital; the amount of the capital paid in; the amount to which it is intended to reserve the privilege of increasing the same, and the par value of each share; which copy and statement shall be certified by the president, under his hand and the common seal of the corporation. And the secretary of state shall thereupon issue a certificate of incorporation, under his hand and the great seal of the state, reciting the said resolution and statement, and declaring the said corporation to be thereafter, until the time mentioned in the said statement for the expiration thereof, a corporation by the

name which it is intended it should thereafter bear, and for the purpose and business therein set forth, unless sooner dissolved according to law. Certificates of incorporation issued pursuant to this section shall be received as evidence of the existence of the corporations as therein declared; and the said corporations shall no longer be under their former charters, but shall have all the rights, privileges and powers conferred by this and the fifty-second and fifty-third chapters of the code, and shall be subject to the liabilities, restrictions and regulations therein prescribed.

Effect of such certificate as evidence, etc.

13. A corporation, at the time when it accepts the provisions of this chapter, may change the par value of its shares as the stockholders thereof, in general meeting, or the board of directors under authority given them by the stockholders, may determine; in which case, the statement to be filed as aforesaid with the secretary of state, shall show the proposed change, and the same shall have effect from the date of the certificate of incorporation.

Par value of stock; how changed and when.

14. When a certificate of incorporation is issued pursuant to the twelfth section, the board of directors and officers then in office may continue to act in their respective capacities until the next annual meeting of the stockholders, and thereafter until their successors have been chosen and qualified, or until a general meeting, called pursuant to the forty-first section of chapter fifty-three of the code, shall elect a new board or make such order in the matter as they deem right.

Directors, etc. to act till successors elected and qualified, etc.

*First Meeting of Stockholders.*

15. When a certificate of incorporation is issued under the ninth section, the incorporators named in the agreement recited therein, or a majority of them, shall appoint the time and place for holding a general meeting of the stockholders to elect a board of directors, make by-laws, and transact any other business which may lawfully be done by the said stockholders in general meeting. The time appointed for the meeting shall not be less than twenty-one nor more than ninety days from the date of the certificate, and at least two weeks' notice of such meeting shall be given by advertisement, in the manner proscribed in the forty-first section of chapter fifty-three of the code.

First meeting of stockholders; time and place of.

Notice thereof.

*Sale of Additional Stock before Organization.*

16. After a certificate of incorporation has been issued pursuant to the ninth section, and before a board of directors have been elected or qualified, additional shares of the capital stock may be disposed of, so that the maximum capital be not exceeded in such manner, on such terms, at such times and places, and under the superintendence of

When and how additional shares may be sold before organization.

such persons as the corporation named in the agreement recited in such certificate, or those holding a majority of the shares, may appoint, but subject to the provisions of the twenty-third and the four following sections of chapter fifty-three of the code.

*Record, Publication and Official Copies of Certificates of Incorporation.*

Secretary of state to preserve in his office agreements, resolutions, etc.

17. The secretary of state shall carefully preserve in his office the agreements, resolutions and statements mentioned in the sixth and twelfth sections, and cause to be accurately recorded in a well bound book, to be kept in his office, all certificates of incorporation and certificates of change of name which he shall issue under this or the preceding chapter of the code. If he omit to record any such certificate, or if any error be discovered in the record thereof he shall forfeit for every such neglect or default not less than ten nor more than fifty dollars. At the beginning of every regular session of the legislature, he shall deliver to the clerk of the house of delegates, accurate copies of every certificate of incorporation not before reported by him; and it shall be the duty of such clerk to cause the same to be printed and bound with the acts of the session. If the said secretary or clerk fail therein, the party so in default shall forfeit not less than one nor more than fifty dollars.

Forfeiture for neglect in such cases.

To deliver to clerk of House copies, etc., when.

Duty of clerk as to such copies. Penalty on secretary or clerk for failure.

Fee of secretary of state for certificate.

18. The secretary may charge a fee of four dollars for every such certificate issued by him; and for recording the original, or issuing a certified copy, a fee of fifty cents; or, in lieu thereof, fifteen cents for every hundred words, which fees shall be paid at the time the service is rendered by the person at whose instance it was done.

Fee for copy, etc.

By whom paid and when.

May issue copies; effect of such, and of printed copies as evidence.

19. The secretary may at any time issue a copy of such certificate, and such copy, certified under his hand, and also the copy printed with the acts of the legislature shall, as evidence, be equivalent to the original.

Certificate to be recorded in office of clerk of county court; when.

20. The company shall cause the said certificate, within three months after it has been issued, or a copy thereof certified as aforesaid, to be delivered for record to the clerk of the county court in which the principal office or place of business of such company is kept; and the clerk of the county court shall record the same in his office. If such company fail therein, it shall be fined not exceeding one thousand dollars.

Penalty on company for failure.

How par value of stock may be increased or diminished; when.

21. Any corporation formed, or which may hereafter be formed, or which has accepted, or may accept, the provisions of this chapter, may, by resolution at any general or special meeting of the stockholders thereof, make such increase or reduction in the par value of the capital stock as may be decided upon by said stockholders, a ma-

majority of the stock of such company being represented by the holders thereof, and such holders being present either in person or by proxy, and voting for such increase or reduction. *Provided*, That notice be given by advertisement published four successive weeks in some newspaper of general circulation, printed in this state, of the intention to offer such resolution.

Notice in such cases

22. When such increase or reduction shall have been made by any such company, the president thereof shall, under his signature and the common seal of the company, certify the resolution to the secretary of state, and the secretary, under his hand and the great seal of this state, shall issue to the company so making such increase or reduction, a certificate reciting the resolution and declaring the proposed increase or reduction to be authorized by law, which certificate shall be received in all courts and places as evidence of the change in the par value of the shares of the capital stock of such company, and of the authority to increase or reduce the same.

Such increase or reduction to be certified to secretary of state; when and how. Duty of secretary thereon.

Effect of certificate as evidence.

*When Meetings of Stockholders or Directors May Be Held Out of this State.*

23. The stockholders or directors of any corporation formed under or accepting the provisions of this chapter, may hold meetings for the transaction of the lawful business of the corporation, including the first general meeting for purposes of organization, and may keep their principal office in any state or territory of the United States, or in the District of Columbia. But no meeting shall be held out of this state without the concurrence of persons holding a majority in value of the stock of the company, nor without reasonable notice.

When and how meetings of stockholders may be held out of state.

24. Every such corporation shall, within thirty days after organizing, by power of attorney duly executed, appoint some person residing in the county in this state wherein its business is conducted, to accept service on behalf of said corporation, and upon whom service may be had of any process or notice, and to make such return, for and on behalf of said corporation, to the assessor of the county or district wherein its business is carried on, as is required by the forty-first section of the twenty-ninth chapter of the code. The said power of attorney shall be filed and recorded in the office of the clerk of the county court of the county in which the attorney resides, and the admission to record of such power of attorney shall be deemed evidence of compliance with the requirements of this section. Any such corporation failing to comply with said requirements, shall forfeit not less than two hundred nor more than five hundred dollars for each year such failure continues, and shall, moreover, during the continuance of such failure, be deemed a non-resident of this state, and its

Corporation must appoint agent to accept service; when and how.

Agent to return property of corporation to assessor.

Where power of attorney filed and recorded, etc.

Forfeiture for failure

Deemed non-resident.

Attachment of its property.

property real and personal, shall be liable to attachment in like manner as the property of non-resident defendants.

*Homestead and Building Associations.*

Homestead and building associations may be formed; for what purposes, etc.

25. Homestead and building associations formed under this chapter may be for the purpose of raising money, to be used among the members of such corporation in buying lots or houses, or in building or repairing houses; and shall be subject to the provisions of this and the fifty-third chapter of the code, so far as the same are not inconsistent with the following sections.

Such corporations cannot use its funds for any other purposes, etc.

26. Such corporations shall not use or direct the funds thereof for or to any other object or purpose than those mentioned in the preceding section, and in case the said funds shall be so used or directed, the association so using or directing them shall forfeit all the rights and privileges as a corporation.

Forfeiture for violation.

Right and powers of such corporations.

27. Every such corporation is authorized to levy, assess and collect from its members such sums of money, by stated dues, fines, interest on loans advanced, and premiums bid by members for the right of precedence in taking loans, as the corporation by its laws shall provide; also to acquire, hold, convey and encumber all such real estate and personal property as may be legitimately pledged to it on such loans, or may be otherwise transferred to it in the due course of its lawful business. *Provided*, That the dues, fines and premiums paid by the members of such corporation, although paid in addition to the legal rate of interest on loans taken by them, shall not be construed to make the loans so taken usurious.

Proviso as to fines, etc.

Liability of stockholders in such corporations.

28. All the stockholders of any such corporation shall be held liable to an amount equal to the stock subscribed by them, or held by them at any time, in addition to said stock, for the purpose of securing the creditors of said association.

Constitution for corporation must be adopted; what to contain.

29. Every such corporation shall adopt a constitution, which shall be signed by the members thereof, and which shall embrace all the provisions of the four preceding sections, and such articles for its government and the management of its business as it shall deem proper. *Provided*, That the same are not inconsistent with the provisions of the four preceding sections.

*Foreign Corporations.*

Rights, powers and privileges of foreign corporations in this state.

30. Any corporation duly incorporated by the laws of any state or territory of the United States or of the District of Columbia, or of any foreign country, holding property or transacting business in this state, unless it be otherwise expressly provided, shall have the same rights, powers and privileges, and be subject to the same regula-

tions, restrictions and liabilities that are conferred and imposed by this and the fifty-second and fifty-third chapters of the code on corporations chartered under the laws of this state. But all such foreign corporations shall file with the secretary of state a copy of their articles of association, and of the law or authority under which they are incorporated. And a certificate shall be issued by the secretary of state, and be recorded by the company in the county in which they hold their property, or in which their business is conducted, and also place on file in the county clerk's office a copy of their articles of association, and the secretary of state shall receive a fee of ten dollars for granting said certificate.

Must file with secretary of state copy of articles of association, etc. Secretary to issue certificate. Where recorded. Also, to file copy of articles of association; where. Fee of secretary of state.

*Mode of Incorporation of Railroad Companies, &c.*

31. Any number of persons, not less than five, may become a corporation, for the purpose of constructing and operating a railroad in this state, as hereinafter provided.

What number of persons may become a corporation for constructing and etc. railroads. Articles of incorporation; form of.

32. The persons desiring to form such corporation, shall adopt and sign articles of incorporation, in form or effect as follows:

"We whose names are hereto subscribed, desire to become a corporation for the purpose of constructing and operating a railroad in the state of West Virginia, do hereby adopt these articles of incorporation for that purpose:

*First.* The name of the corporation shall be the \_\_\_\_\_ company.

Name.

*Second.* The railroad which this corporation proposes to build, will commence at or near \_\_\_\_\_ in the county of \_\_\_\_\_ and run thence by the most practicable route, to a point at or near \_\_\_\_\_ in the county of \_\_\_\_\_.

Location of route.

*Third.* The principal business office of this corporation will be at \_\_\_\_\_ in the county (or city) of \_\_\_\_\_ in the state of \_\_\_\_\_.

Principal office.

*Fourth.* This corporation shall continue perpetually.

How long to continue. Capital stock.

*Fifth.* The capital stock of this company shall be \_\_\_\_\_ dollars, divided into shares of \_\_\_\_\_ dollars each.

*Sixth.* The names and places of residence of the persons forming this corporation are as follows: A— B—, county (or city) of \_\_\_\_\_, state of \_\_\_\_\_, and so on, giving the names and residences of all the parties."

Name and place of residence of corporatoris.

33. When said articles are adopted and signed, as prescribed in the next preceding section, and acknowledged by the parties signing the same, in the same manner as deeds are required by law to be acknowledged, they shall be recorded in the office of the clerk of the county court of the county in which said railroad is to commence and that in which it is to terminate, and also in the office of the secretary of state, where the original shall be filed and preserved.

Articles of incorporation; how signed and acknowledged. Where recorded.



When corporators deem a body corporate, etc. 34. When the articles shall have been filed and recorded as aforesaid, the persons named as corporators therein, shall thereupon become and be deemed a body corporate, and shall be authorized to proceed to carry into effect the object set forth in such articles, in accordance with the provisions of this chapter. As such body corporate, they shall have perpetual succession, and in their corporate name may sue and be sued, plead and be impleaded. The said corporation shall have and use a common seal, which it may alter at pleasure; may declare the interest of its stockholders transferrable; shall establish by-laws and make all rules and regulations deemed necessary for the management of its affairs in accordance with law. A copy of any articles of incorporation filed and recorded in pursuance of this chapter, or of the record thereof, and certified to be a copy by the secretary of state, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated. If said articles of incorporation, after having been recorded in any county, and before being recorded in the office of the secretary of state, be lost or destroyed, or be changed from what it originally was, a copy thereof from the record in any such county, duly certified by the clerk of the county court of such county, may be recorded in another county, and filed and recorded in the office of the secretary of state, and the same when so recorded shall have the like force and effect, as the original when so recorded. But before any such copy shall be recorded, an affidavit of the loss, destruction or change of the original must be appended thereto, which shall also be recorded with said copy. This section shall apply as well to the recording of any such copy heretofore, as to one hereafter recorded, but this provision shall not affect any suit now pending, or which may hereafter be brought, in which the validity of any such corporation or its organization shall come in question.

To have perpetual succession; may sue and be sued, etc. Have a common seal, etc. Declare interest on etc. By-laws, etc. Effect of certified copy of incorporation, by secretary of state, as evidence. If articles of incorporation, after rec. dation in county and before rec. dation in office of secretary of state, be lost, etc. or changed; what then. Force and effect thereof. Affidavit of loss, etc. in such cases. To what copies to apply. Not effect any suit now pending, etc.

*By-Laws—Where Recorded.*

Copy of by laws to be recorded; how and where. 35. A copy of the by-laws of such corporation, when formed and adopted by the stockholders, duly certified, shall be recorded as provided for the recording of the articles of association in section thirty-three of this chapter. And all amendments and additions thereto, duly certified, shall also be recorded as herein provided, within ninety days after the adoption thereof.

Also, amendments and additions thereto, when.

*First Meeting of Corporators, &c.—One Office to be Kept in this State, and What Books and Exhibits to be Kept Therein—Annual Meeting of Stockholders.*

First meeting; when and where. 36. Every railroad corporation organized under the provisions of this chapter, shall hold its first meeting in this state at such time and place as may be designated by the

corporators thereof, and all subsequent meetings at such place or places, in or out of this state, as the directors may from time to time appoint; and the stockholders of every such corporation shall have authority at their first meeting, or any subsequent meeting, to fix and determine the place of meeting (in or out of this state) of the directors, the time and place of the annual meeting of the stockholders, and the principal office or place of business of said corporation; *Provided, however,* That such corporation shall have and maintain an office or place in this state for the transaction of its business; where an exhibit of the transfers of all its stocks shall be kept, and in which shall be kept, for the inspection of any officer or stockholder, books wherein shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock; the number of shares held by each person, and the amounts owned by them respectively; the amount of stock paid in and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and places of residence of all its officers.

Subsequent meetings; when and where

To fix time and place of annual meeting, and principal place of business, when. Must have an office in this state. Exhibit of transfers of stocks to be kept; when. Stock books; what to contain.

*Appointment of Agent to Accept Service of Process, etc. ;  
Penalty for Neglect*

37. Every such corporation shall, within one hundred days after organizing, by power of attorney duly executed, appoint some person residing in the county in this state wherein it has the office mentioned in the next preceding section, to accept service on behalf of said corporation of any process or notice; the said power of attorney shall be filed and recorded in the office of the clerk of the county court of the county in which the attorney resides, and the admission to record of such power of attorney shall be deemed evidence of a compliance with the requirements of this section. And whether such agent accept the agency or not, the service of process upon such person so appointed shall be legal and binding on the corporation. Any such corporation failing to comply with such requirements, shall, during the continuance of such failure, forfeit not less than five hundred nor more than one thousand dollars for every six months that such failure continues; and its property, real and personal, shall be liable to attachment in like manner as the property of non-resident defendants.

Appointment of agent to accept service of process, etc.

Where such powers of attorney filed and recorded.

Effect of recordation of same.

Service of process etc. on such agent, legal, whether accepts agency or not.

Forfeiture for failure in this particular.

How recovered.

*Election of Directors, etc.*

38. At the regular annual meeting of the stockholders of such corporation, there shall be elected a board of directors thereof, consisting of not less than five nor more than thirteen of the stockholders of said corporation, a majority of whom, unless otherwise provided in the by-laws, shall constitute a quorum for the transaction of business; and

Election of directors; when;

How many.

Quorum.

**Powers of board of directors.** all the corporate powers of such corporation shall be vested in, and exercised by said board of directors. If for any cause an election for directors shall not be made at the proper time, such election may be made at a special meeting of the stockholders called in pursuance of the next section. The number of such directors, the manner of their election and removal from office, and the mode of filling vacancies in the board shall be prescribed by the by-laws, and shall not be changed, except at the annual meeting of the stockholders.

**When directors may be elected at special meeting.**

**By-laws to fix number of directors; how elected and mode of filling vacancies.**

**When by-laws may be changed.**

*Special Meeting of Stockholders, etc.*

**Special meeting of stockholders; how called.** 39. A special meeting of the stockholders of such corporation may be called at any time during the interval between the annual meetings by a majority of the directors, or by the stockholders owning not less than one-fourth of the stock, by giving thirty days' public notice of the time and place of such meeting, in some newspaper of general circulation, published near the principal office or place of business of the corporation, and in at least two other newspapers published in the vicinity of the line of the proposed railroad in this state; *Provided*, That if at any such special meeting so called, a majority in value of the stock equal to two-thirds of the stock of such corporation shall not be represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding ten days, without transacting any business; and if, within ten days, two-thirds in value of such stock shall not be represented at such meeting, then the meeting shall be adjourned, and a new call may be given and notified as herein provided.

**Notice required.**

**A majority of two-thirds of the value of the stock must be represented at such special meeting.**

*Regular Meetings—Statements—Interest.*

**Regular annual meeting; president and directors to exhibit full statement, etc.** 40. At the regular annual meeting of the stockholders of any such corporation organized under the provisions of this chapter, it shall be the duty of the president and directors to exhibit a full, distinct, and accurate statement of the affairs of the said corporation; and, at any meeting of the stockholders, a majority of those present in person or by proxy, may require similar statements from the president and directors, whose duty it shall be to furnish such statements, when required, in manner aforesaid, and at all general meetings of the stockholders a majority in value of the stock of any corporation may fix the rates of interest which shall be paid by the corporation for loans for the construction of such railroad and its appendages, and the amount of such loans. All stockholders shall, at reasonable hours, have access to, and may examine, all the books, records and papers of such corporation.

**Stockholders, at general meetings, may fix rate of interest to be paid for loans.**

**Stock holders to have access to books of corporation**

*Corporation not to be Dissolved for Failure to Elect Directors*  
 — *When.*

41. Such corporations shall not be dissolved by reason of a failure to elect directors on the day designated by the by-laws, if within six months thereafter such election be made as provided for in the thirty-eighth section of this chapter.

Corporations not to be dissolved by failure to elect directors.

*Election and Appointment of President and Other Officers, etc.*

42. There shall be a president of such corporation, who shall be chosen by and from the board of directors, and such other subordinate officers as such corporation, by its by-laws, may designate, who may be elected or appointed, and shall perform such duties, and be required to give such security for the faithful performance thereof, as such corporation, by its by-laws, shall require; *Provided*, That it shall require a majority of the directors to elect or appoint any officer and fix his compensation.

Election and appointment of president and other officers.

May be required to give security for performance of duties.

Majority of directors required to elect any officer etc.

*Payment of Stock—How Enforced—Sale for Non-Payment, etc.*

43. The directors of such corporation may require the subscribers to the capital stock thereof to pay the amount by them respectively subscribed, in such manner and in such installments, as they may deem proper. If any stockholder shall neglect to pay any installment, as required by a resolution or order of such board of directors, the said board shall be authorized to declare such stock and all previous payments thereon, forfeited for the use of the corporation; but the said board of directors shall not declare such stock so forfeited, until they shall have caused a notice, in writing, to be served on such stockholders personally, or by depositing the same in a postoffice, properly addressed to the postoffice address of such stockholder, or if he be dead, to his legal representatives, with necessary postage for its transmittal properly prepaid, stating therein, that, in accordance with such resolution or order, he is requested to make such payment, at a time and place, and in the manner to be specified in such notice; and that if he fails to make the same in the manner requested, his stock and all previous payments thereon, shall be forfeited for the use of such corporation; and thereafter such corporation, should default of payment be made, may sell the same, and issue new certificates of stock therefor; *Provided*, That the notice as aforesaid, shall be personally served or duly deposited, as herein required, at least sixty days previous to the day on which such payment is required to be made.

Payment of stock.

How enforced.

Notice to be given.

Sale for non-payment.

*Company Funds.*

44. The stock of such corporation shall be deemed personal property, and shall be transferable in the manner

Stock deemed personal property; how transferable.

prescribed by the by-laws of such corporation. But no shares shall be transferable until all previous calls thereon shall have been paid.

**How capital stock increased.**

**How sanctioned.**

**Notice to be given; how served.**

**Notice by publication.**

**What to be stated in notice.**

**How special meeting of stockholders called by directors.**

**What business may be done at such special meeting; exception.**

**Proceedings of special meeting to be entered on journal.**

45. In case the capital stock of any such corporation shall be found insufficient for constructing and operating its railroad, such corporation may, with the concurrence of two-thirds in value of all its stock, increase its capital stock from time to time to any amount required for the purpose aforesaid. Such increase shall be sanctioned by a vote, in person, or by proxy, of two-thirds in amount of all the stock of such corporation, at a meeting of such stockholders, called by a majority of the directors of the corporation for such purpose, by giving notice, in writing, to each stockholder, to be served personally, or by depositing the same in a postoffice, directed to the postoffice address of each of said stockholders severally, with necessary postage for the transmittal of the same prepaid, at least sixty days prior to the day appointed for such meeting, and by advertising the same in some newspaper of general circulation, published near the principal office or place of business of the corporation, and in at least two like newspapers published in the vicinity of the line of said railroad within this state, at least sixty days prior to the day appointed for such meeting. Such notice shall state the time and place of such meeting, the object thereof, and the amount to which it is proposed to increase such capital stock. And at such meeting, the corporate stock of such corporation may be so increased, by a vote of two-thirds in amount of the corporate stock of such corporation, to an amount not exceeding the amount mentioned in the notice so given. Should the directors of any such corporation desire at any time to call a special meeting of the stockholders for any other necessary purpose, the same may be done in the manner in this section provided; and if such meeting be attended by the owners of two-thirds in amount of the stock, in person or by proxy, any other necessary business of such corporation may be transacted, except the altering, or mending, or adding to the by-laws of such corporation; *Provided*, Such business shall have been specified in the notices given. And the proceedings of any such meeting shall be entered on the journal of such corporation. Every order or resolution increasing the capital stock of any such corporation, shall be duly recorded as required in section thirty-three of this chapter.

#### *Personal Liability of Stockholders.*

**Personal liability of stockholders.**

46. No person holding stock in any such corporation as executor, administrator, guardian or trustee, and no person holding such stock as collateral security shall be personally subject to any liability as stockholder of such

corporation, but the person pledging the stock shall be considered as holding the same, and shall be liable as a stockholder accordingly.

47. Each stockholder of any such corporation formed under the provisions of this chapter shall be held individually liable to the creditors of such corporation to an amount not exceeding the amount unpaid on the stock held by him, and no more, for any and all debts and liabilities of such corporation.

Stockholders liable to an amount not exceeding their unpaid stock.

*Real Estate for the Use of Such Corporations—How Condemned.*

48. If any such corporation shall be unable to agree with the owner of any real estate for the purchase thereof for its corporate purposes, it may have such real estate condemned for such purposes under the provisions of chapter forty-two of this code.

Real estate; how condemned

*How Corporations May Take Materials from Land.*

49. Every such corporation may, by its agent and employes, enter upon and take from any land adjacent to its road, wood, earth, gravel, shale, or stone, necessary to be used in constructing its railroad, and in repairing, altering or enlarging the same, as provided in section fourteen of chapter fifty-two of this code, and all the provisions of said section shall be applicable to such proceeding. But if any such tenant, as is mentioned in said section, upon the report of the commissioners being returned to the circuit court, except thereto, and demand that the compensation to which he is entitled be fixed by a jury, the question shall be tried by a jury, as provided in section seventeen of chapter forty-two of this code.

How corporation may take material from land.  
How value ascertained by jury.

*General Powers of Corporation.*

50. Every such corporation formed under this chapter shall, in addition to the powers hereinbefore conferred, have power:

General powers of corporation.

*First.* To cause such examination and survey for its proposed railroad to be made as may be necessary to the selection of the most advantageous route, and for such purpose, by its officers, agents, engineers or employes, may enter upon the lands or waters of any person or corporation; but subject to responsibility for all damages which may be occasioned thereby.

To cause examinations and surveys to be made.

*Second.* To take and hold such voluntary grants of real estate and other property as shall be made to it, in aid of the construction and use of its railroad, and to sell and convey the same when no longer required for the uses of such railroad, not incompatible with the terms of the original grant.

To take and hold voluntary grants of real estate.

To purchase, hold and use real estate.

*Third.* To purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its railroad, and the stations and accommodations necessary to accomplish the object of its incorporation, and to sell and convey the same when no longer required for the use of such railroad.

To lay out road, not exceeding one hundred feet in width.

*Fourth.* To lay out its road, not exceeding one hundred feet in width, and to construct the same; and for the purpose of excavations and embankments, to take as much more land as may be necessary for the proper construction, repair and security of the railroad; and to cut down any standing trees that may be in danger of falling upon or obstructing the railroad, making compensation therefor in the manner prescribed by section forty-nine of this chapter.

To change the grade or location of its road.

*Fifth.* To change the grade or location of its railroad for the purpose of avoiding annoyances to the public travel, or dangerous or difficult curves or grades, or unsafe or impracticable and unsubstantial grounds or foundations, or for other like reasonable causes.

To construct its railroad along any stream, street, highway, road, etc.

*Sixth.* To construct its railroad across, along or upon any stream of water, water course, street, highway, road, turnpike or canal, which the route of such railroad shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, road, turnpike or canal, thus intersected or touched, to its former state, or to such state as not unnecessarily to have impaired its usefulness, and to keep such crossing in repair. Nothing in this chapter contained shall be construed to authorize the erection of any bridge or any other obstruction across or over any stream navigable by steamboats at the place where any bridge or other obstruction may be proposed or placed, so as to prevent the navigation of such stream; nor to authorize the construction of any railroad upon or across any street in the inhabited portion of any city or incorporated town or village, without the assent of the corporation of such city, town or village; *Provided*, That any company running its railroad through or within half a mile of a town or village within this state containing three hundred or more inhabitants, shall establish a station for the accommodation of trade and travel of such town or village; *And provided further*, That in case of the construction of said railroad along highways, roads, turnpikes or canals, such railroad shall either first obtain the consent of the lawful authorities having control or jurisdiction of the same, or condemn the same under the provisions of section 48 of this chapter; *And provided further*, That nothing in this chapter shall be construed to authorize the incorporation of any railroad company, the purpose and effect of which is to connect two other railroads, and thereby abandon as through routes any city or town of this state, which is the terminus of either or both of

Not to authorize erection of bridge across navigable streams, etc.

Consent of city or town required in certain cases.

Proviso.

Stations to be established at all towns or villages of more than three hundred inhabitants.

Proviso as to construction of road along highways, roads, turnpikes and canals.

Consent of lawful authorities required.

Connection of two railroads in certain cases prohibited.

said railroads, without the consent of such city or town.

*Seventh.* To cross at grade, or to cross over or under, intersect, join and unite its railroad with any other railroad now built and constructed, or hereafter to be built and constructed within this state, at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections, and every corporation whose railroad is, or shall be hereafter, intersected by any new railroad, shall unite with the corporation owning such new railroad in forming such intersection and connections, and grant the facilities aforesaid; and, if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossing and connections, the same shall be ascertained and determined in the manner prescribed by section forty-eight of this chapter.

To cross or unite with any other railroad.

In case of disagreement as to compensation and point of connection, how determined.

*Eighth.* To receive and convey persons and property on its railroad by the power and force of steam or animals, or by any mechanical power.

To receive and convey persons and property by steam or mechanical power, or by animals.  
To erect buildings, fixtures, etc., for use of road.

*Ninth.* To erect and maintain all necessary and convenient buildings and stations, fixtures and machinery for such connections, constructions, transfer, accommodation and use of passengers, freights and business interests, or which may be necessary for the construction or operation and repair of said railroad, its track, roadway and machinery.

*Tenth.* To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, subject, nevertheless, to the provisions of any law that has been or may be hereafter enacted.

To regulate the time and manner of transporting passengers and property.

*Eleventh.* From time to time to borrow such sums of money as may be necessary for completing, finishing, improving or operating any such railroad; and to issue bonds, bills of credit, or indebtedness and preferred stock, and dispose of the same, for any amount so borrowed; and to mortgage its corporate property and franchises, to secure the payment of any debt contracted by such corporation for the purposes aforesaid; but the concurrence of the holders of two-thirds in amount of the stock of such corporation, to be expressed in the manner and under all the conditions provided in section forty-five of this chapter, shall be necessary to the validity of any such mortgage; and the order or resolution for such mortgage shall be recorded as provided in section thirty-five of this chapter; and the directors of such corporation shall be empowered, in pursuance of any such order or resolution, to confer on any holder of any bond for money so borrowed as aforesaid, the right to convert the principal due or owing thereon into stock of such corporation, at any time

To borrow money and issue bonds, etc.

May mortgage property and franchises.  
Assent of stockholders required.

Bonds convertible into stock.



Limit as to time for such conversion. not exceeding ten years after the date of such bond, under such regulations as may be provided in the by-laws of such corporation.

To mortgage its property or franchises to secure bonds or stocks. *Twelfth.* To mortgage its property, real and personal, and its franchises, to secure any bonds or stock issued by such corporation for any of the purposes designated in the fifty-second section of this chapter.

*Rolling Stock, etc., to be Personal Property, etc.*

Rolling stock to be personal property, etc. 51. The rolling stock, and all other movable property belonging to any such corporation, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals.

*Issue of Stocks, Bonds, etc.—When Void.*

Issue of stock or bonds in certain cases prohibited. 52. No such corporation shall issue any stock or bonds, except for money, labor, property and materials actually purchased, received and applied to the purposes for which such corporation was organized; nor shall it issue any stock, or declare any stock dividends, except for money, labor, property, or materials so received and applied, or for amounts of money not exceeding the net earning of such corporation, which shall have been actually and in good faith applied and invested in and for the purpose for which such corporation was organized. All stock dividends, and other fictitious increase of the capital stock or indebtedness of any such incorporations, shall be void.

Stock dividends void.

*Consolidation of Stock with Other Roads, etc.—Leasing, etc.*

Parallel competing lines not to be consolidated without consent of legislature. 53. No railroad corporations shall consolidate its capital stock with any other railroad running parallel, or competing line, without the consent of the legislature; but any railroad corporation may merge, or consolidate with, or lease its railroad for a term of years, to any other corporation owning or operating any connecting line of railroad wholly or partly within this state, in order to make a continuous line of railroad to be run and operated with or without change of cars, or break of bulk, or exchange or transfer of passengers or freight; and may sell to or purchase such connecting line of railroad. and may adopt another name for their said road thus merged, consolidated or connected, by filing in the office of the secretary of state a declaration of the adoption of such other name, and publishing such declaration, for sixty days, in all newspapers published along the line of such railroad. But such merger, consolidation or sale shall be made only upon such terms and conditions as shall be agreed to by a majority of the stockholders in each of the companies so merging, consolidating, selling or purchasing; *Provided,*

Exception as to continuous line.

May change name.

Notice required.

That such merger or consolidation shall not invalidate any action, suit, claim or demand against any or either of the companies who are parties thereto; and any such action, suit, claim or demand shall be held to be in full force against the company owning such consolidation or merged line of railroad. And in no case shall any consolidation take place, except after sixty days' notice thereof, which notice shall be given in the manner prescribed in section forty-five of this chapter; *Provided*, That this section shall not apply to the Baltimore and Ohio railroad and the Northwestern Virginia railroad so as to enlarge any powers or privileges which either of said railroads now possess.

Suits at law not to be invalidated by consolidation of roads.

Not to apply to Baltimore and Ohio and North Western Virginia railroads.

*Directors to Report to Auditor.*

54. The directors of every such corporation, shall annually make a report, under oath to the auditor of public accounts of this state, and to such other officers as may be designated by law, of all its actings and doings; which report shall include such matters relating to such corporations as may have been, or may be hereafter proscribed by law.

Directors to report to auditor.

*Powers Reserved to the Legislature.*

55. The legislature shall have power to enact, from time to time, laws to prevent and correct abuses and prevent unjust discriminations and extortions in the rates of freight and passenger tariff, and to establish reasonable maximum of rates of charges for the transportation of persons or property on any railroad that may be constructed under the provisions of this chapter, and to enforce such laws by adequate penalties,

Power of legislature to correct abuses.

*Number of Votes each Stockholder is Entitled to—Cumulative Voting.*

56. In all elections for directors and managers of such railroad corporations, every stockholder shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he may think fit; and such directors or managers shall not be elected in any other manner.

Election of directors, and how.

Cumulative voting.

*Subscriptions by Counties, etc., to the Capital Stock of such Railroad Corporations.*

57. Subscriptions to the capital stock of any such corporation may be made by any county, or any district therein, or any incorporated city, town or village through,

County, district, city or town subscriptions; how authorized.

**Election thereon; how held.** by or near which said railroad is located, in the manner proscribed by section twenty-four of chapter thirty-nine of this code, and all the provisions of said section shall be applicable to such subscriptions; except that when the subscription is proposed to be made by such city, town or village, the order for taking the vote on the question shall be made by the counsel thereof, and the election shall be held, superintended and returned, and the result ascertained in the same manner as elections held therein for municipal officers. If any such subscription be made to the capital stock of such railroad corporation, and such corporation shall afterwards forfeit its charter, or otherwise fail to construct its railroad according to the provisions of its charter, or shall fail to comply with the terms of its agreement with such county, district, city, town or village, under which such subscription has been or shall be made, the subscription so made shall be void.

**Subscription to be void in certain cases.**

**Agent to make subscription.**

**Subscription to be paid in cash or coupon bonds. Bonds to bear interest. Time of redemption of bonds.**

**President of county court to execute and deliver bonds.**

**Levy to pay subscription or loan and interest.**

**Sinking fund.**

**How tax collected and accounted for.**

**Right to the stock; how vested.**

**Appointment of proxies to represent stock, and agents to**

58. When any such subscription has been authorized, as aforesaid, the county court of the county, or the council of the city, town or village (as the case may be), shall appoint an agent, to make the subscription on the part of such county, district, city, town or village, upon the terms and conditions specified in the order under which the vote is taken. Said subscriptions shall be paid in cash, or in the coupon bonds of such county, district, city, town or village, bearing interest at a rate not exceeding six per centum per annum, and redeemable in such time not exceeding thirty-four years, as such court or council may prescribe; which bond shall be received by said corporation at par. And the president of the county court shall have power to execute and deliver the bonds above mentioned, duly attested by the clerk of said court, when authorized to do so, by such county court or council of said city, town or village, by an order entered of record

59. At the time of the annual levy of any such county, city, town or village is laid, there shall be a tax levied on all the property subject to taxation therein, sufficient to pay the amount of such subscription, if payable in cash, or to pay the annual interest on the bonds of the county, city, town or village, if bonds be issued and to create a sinking fund to pay the principal when it shall become due; and in case of such subscription being made by a district of any county, the county court of such county shall levy such tax on the property subject to taxation in such district. Such taxes shall be collected and accounted for in the same manner as other taxes and levies.

60. The right to the stock of such company so subscribed for shall vest in such county, district, city, town or village making the same, and the county court of the county, or council of the city, town or village, shall from time to time, as may be necessary, appoint proxies to represent the stock

held by such county, district, city, town or village, in the meetings of the stockholders of the company, and also an agent to collect the dividend on such stock; which dividend when collected, shall be applied annually in diminution of the county, district, city, town or village levy.

collect dividends. Dividends to be applied to diminution of levy.

*Warning of Approaching Trains—Penalty for Neglect.*

61. A bell or steam whistle shall be placed on each locomotive engine which shall be rung or whistled by the engineer or fireman, at the distance of at least sixty rods from the place where the railroad crosses any public street or highway, and be kept ringing or whistling until such street or highway is reached, under a penalty of not exceeding one hundred dollars for each neglect, one-half of which shall go to the state, and the other to the prosecuting witness; and the corporation owning the railroad shall be liable to any party injured for all damages sustained by reason of such neglect; *Provided*, That such penalty shall be sued for within three months from the time the cause of action arises and not after.

Bell or whistle on locomotive. When to be sounded. Penalty for neglect. Corporation liable. Limitation as to enforcement.

62. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each public road or street, where the same is crossed by the railroad on the same level. Said boards shall be elevated so as not to obstruct the travel and be easily seen by travelers; and on each side of said boards shall be painted in legible capital letters "railroad crossing; look out for the locomotive!" But this section shall not apply to streets in cities or villages unless the corporation be required to put up such boards by the officers having charge of such streets.

Boards to be erected at railroad crossings. How placed. What painted thereon. Exception as to streets in cities and villages.

*Drunkenness of Engineer or Conductor; Penalty.*

63. If any person shall, while in charge of a locomotive engine running upon the railroad of any corporation, or while acting as the conductor of any car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars.

Intoxication of engineer or conductor a misdemeanor. Penalty therefor.

*Injuries, etc., to Corporate Property.*

64. Any person who shall wilfully or unlawfully injure, impair, weaken or destroy any building, construction, work, engine, machine, or structure, or any matter or thing appertaining thereto, or obstruct the said corporation in the use thereof, the person or persons so offending shall be guilty of a misdemeanor, and fined not exceeding one thousand dollars, and imprisoned not exceeding six months, and if the death of any person occur in consequence of any such unlawful act, the person or persons committing the same shall be guilty of murder.

Injury or damages to railroad or its property. Misdemeanor. Punishment of death resulting therefrom; murder.

*Map of Road to be Filed.*

Map and profile of road and land to be filed.

Where filed.

65. Every such corporation shall, within a reasonable time after its railroad is located, cause to be made a map and profile thereof, with the names of the owners of the lands through which it runs, and of the noted places along the same stated thereon, and file the same in the office of the secretary of state, and in the office of the clerk of the county court of each county in which any part of said road is located.

*Charter; When and How Perfected.*

When work of construction to commence.

Amount to be expended.

When to be completed

Forfeiture.

66. If any railroad corporation organized under this act, shall not, within two years after its articles of association shall be filed and recorded as required in section thirty-three of this chapter, begin the construction of its road and expend thereon ten per cent of the amount of its capital, within three years after the date of its organization, or shall not finish its railroad and put it in operation within ten years from the time of filing its articles of association as aforesaid, its corporate existence and power shall cease.

*Existing Railroads Subject to this Chapter.*

Existing railroads entitled to privileges of this chapter.

67. All existing railroad corporations within this state shall respectively have and possess all the powers and privileges, and be subject to all the duties and liabilities and provisions contained in this chapter.

*Company May Receive Donations, etc.—How Subscriptions May be Paid.*

May receive subscriptions payable in lands etc.

68. All railroad companies organized and constructed under the provisions of this chapter may, and shall have power and authority to receive donations and devise of lands, property and materials, and receive subscriptions to their capital stock, payable in lands, property, materials, work, labor and otherwise, upon such terms and conditions as the directors and owners may agree and determine.

*Lateral and Branch Roads, etc.—Telegraph Lines, etc.*

Lateral roads, branches and tramways.

Planes and gravity roads. Part of roads may be operated.

May build bridges for wagons, etc., and collect tolls.

69. Any railroad company organized under this chapter may build and construct lateral and branch roads, or tramways, and of any gauge whatever, not exceeding fifty miles in length, and may build planes and gravity roads, use and operate any part or portion of their said main line and branch or branches when completed, the same as though the whole of their said proposed railroad was fully completed; and in the construction of their bridges across any river or navigable stream, may provide for the passage of wagons or other travel, collecting tolls therefor

as prescribed by law; and may erect and operate a tele-  
 graph line or lines, with the right to use, control and  
 operate the same along the line of their said railroad and  
 branches, and connecting with any of their said works,  
 offices and improvements.

May erect and  
 operate tele-  
 graph lines.

*Former Laws to Remain in Force, etc.; What Companies may  
 Accept the Provisions of this Chapter.*

70. All laws of a general nature in relation to railroad  
 corporations now in force in this state, so far as they are  
 not inconsistent with the provisions of this chapter, in re-  
 lation to such corporations, shall remain in force and be  
 applicable to the railroad corporations organized under  
 this chapter; and any railroad corporation incorporated  
 by special charter and now existing, may accept the pro-  
 visions of this chapter and reorganize under the same  
 without impairing any rights or privileges granted under  
 its original act or incorporation, subject, however, to the  
 control of the legislature as provided in the constitution  
 of the state.

General laws to  
 apply, so far as  
 not inconsis-  
 tent.

Railroads heretofore organized under special charter, may accept provisions of this chapter, and reorganize hereunder. Subject to control of Legislature.

*Provisions Concerning Railroads Generally.*

71. Railroads heretofore or hereafter constructed in this  
 state, are hereby declared public highways, and shall be  
 free to all persons for the transportation of their persons  
 and property thereon, under such regulations as now are,  
 or may be prescribed by law, but nothing in this section  
 contained shall be construed to exempt any person from  
 the payment of the lawful charges for such transporta-  
 tion.

Railroads declared public highways. Free to all under regulations prescribed by law. No person exempt from payment of lawful charges.

*Sale of Property of Railroad Corporations—Purchaser to be a  
 Corporation.*

72. If a sale shall be made under a deed of trust or  
 mortgage executed by a railroad corporation on all its  
 works and property, or if the sale of such property shall  
 be made under the decree of a court, and there be a con-  
 veyance to any person or persons pursuant to any such  
 sale, said sale and conveyance shall pass to the purchaser  
 at such sale, not only the works and property of the cor-  
 poration as they were at the time of making the deed of  
 trust or mortgage, but any works which the company  
 may, after that time and before the sale, have constructed,  
 and all other property of which it may be possessed at the  
 time of the sale, other than debts due to it. Upon such  
 conveyance to the purchaser the said company shall *ipso  
 facto* be dissolved, and the said purchaser shall forthwith  
 be a corporation by any name which may be set forth in  
 said conveyance, or in any writings signed by him or them,  
 and recorded in the office of the clerk of the county court of

Sale of property of railroad corporation.

What to pass to purchaser.

Purchaser to be a corporation.

any county wherein the property so sold, or any part thereof is situated.

New corporation to succeed to all the franchises, rights, etc., of original corporation.

73. The corporation created by or in consequence of such sale and conveyance shall succeed to all such franchises, rights and privileges, but not immunity from taxation, and perform all such duties as would have been had, or should have been performed by the first company, but for such sale and conveyance; save only, that the corporation so created shall not be entitled to debts due to the first company, and shall not be liable for any debts of, or claims against, the said first company, which may not be expressly assumed in the contract of purchase; and that the whole profits of the business done by such corporation shall belong to the said purchaser and his assigns. His interest in the corporation shall be personal estate, and he or his assigns may create so many shares of stock therein as he or they may think proper, not exceeding together the amount of stock in the first company at the time of the sale, and assign the same in a book kept for that purpose. The said shares shall thereupon be on the footing of shares in joint stock companies generally, except only that the first meeting of the stockholders shall be held on such day and at such place as shall be fixed by the said purchaser, of which notice shall be published for four successive weeks in a newspaper printed in each county in the state, wherein said corporation may do business.

Exception.

Interest in corporation to be personal estate. Shares of stock may be created.

Meeting of stockholders of new corporation; when held. Notice required.

#### *Acts Repealed.*

Acts repealed.

74. The act approved April three, one thousand eight hundred and seventy-three, entitled "an act to provide for the incorporation of associations that may be organized for the purpose of constructing railroads, maintaining and operating the same; for prescribing and defining the duties and limiting the powers of such corporation when so organized," and all acts and parts of acts amending the same are hereby repealed.

#### *Construction of Certain Words.*

Construction of words, "county court."

75. The words "county court" used in this chapter shall be construed to apply to and include any tribunal heretofore established, and now existing, in lieu of the county court.

#### *Banks.*

Bank; to what law subject.

76. Banks of issue or of discount and deposit, whether heretofore formed under the laws in force at the time of their formation, or hereafter formed under the provisions of this chapter, shall be subject to the provisions of this chapter, and of chapters fifty-two and fifty-three of the code, so far as the same are applicable, and not inconsistent with the following sections of this chapter; but any

such bank shall not be subject to such provisions so far as the same may be inconsistent with a special charter to such bank.

#### *Capital Stock.*

77. The capital stock of every banking company, formed under the provisions of this chapter, shall not be less than twenty-five thousand dollars, nor more than five hundred thousand dollars.

Limitation of capital stock.

#### *Personal Liability of Stockholders.*

78. The stockholders of every bank heretofore or hereafter organized, under the act passed December twenty-six, one thousand eight hundred and seventy-three, entitled "an act to provide for the incorporation of banks of discount and deposit," or under this chapter, shall be personally liable to the creditors thereof, over and above the amount of stock held by them, respectively, to an amount equal to their respective shares so held, for all its liabilities accruing while they are such stockholders.

Liability of stockholders to creditors.

#### *Directors.*

79. Every director of a bank must be a stockholder thereof, and shall, before entering upon his duties as such, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the company, and that he will not knowingly and willingly permit to be violated any of the provisions of the laws of this state relating to banks; that he is the *bona fide* owner in his own right of the stock standing in his name on the books of the company, and that the same is not hypothecated in any way or pledged as security for any loans obtained or debts owing; which oath subscribed by himself and certified by the officer before whom it is taken, shall be filed and carefully preserved in the office of such bank.

Directors of banks must be stockholders thereof.  
Oath of director.

Where oath filed and preserved.

#### *Meeting of Stockholders—Where Held.*

80. No meeting of the stockholders or directors of a bank, shall be held out of this state.

Meetings where held.

#### *Powers of Banks.*

81. Every such bank may exercise under the laws of this state, all such incidental powers as shall be necessary to carry on the business of banking, by discounting promissory notes, negotiating drafts, bills of exchange, and other evidences of indebtedness, receiving deposits, buying and selling exchange, bank notes, bullion or coin, and by loaning money or personal or other security.

Incidental powers of banks.

#### *Sale of Property and Works of Corporations other than Railroad Companies.*

82. Whenever there has been since the first day of Feb-



Sale of property and works of corporation other than railroad companies.

Exception as to works constructed, etc., after execution of trust.

ruary, one thousand eight hundred and seventy-seven, or shall hereafter be a sale of the works and property of any corporation, other than a railroad corporation under a decree, mortgage or trust deed, and there be a conveyance to the purchaser for the same, said purchaser or purchasers shall become a corporation in the same manner and be entitled to the franchises of the old corporation in the same manner as is provided for railroad corporations in such cases in section seventy-two of this chapter, and the old corporation shall be ipso facto dissolved. But the purchaser at said sale shall not obtain the works constructed, or property acquired after the making of the said deed of trust or mortgage.

Acts Repealed.

2. The act recited in section seventy-eight of this chapter is hereby repealed.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER XVIII.

AN ACT to revive, amend and re-enact chapter forty-two of the code of West Virginia, concerning the taking of land without the owner's consent for purposes of public utility, and to repeal chapter one hundred and fourteen of the acts of one thousand eight hundred and seventy-five.

[Passed February 23, 1881].

Be it enacted by the Legislature of West Virginia:

Code revived and amended.

1. That chapter forty-two of the code of West Virginia be and the same is hereby revived, amended and re-enacted so as to read as follows;

CHAPTER XLII.

OF THE TAKING OF LAND WITHOUT THE OWNER'S CONSENT FOR PURPOSES OF PUBLIC UTILITY.

In what Cases and how Private Property may be Taken or Damaged for Public Use, etc.

Private property not to be taken for public

1. Private property shall not be taken or damaged for public use without just compensation; nor shall the same

be taken by any company incorporated for the purposes of internal improvement, until just compensation shall have been paid, or secured to be paid to the owner; and when private property shall be taken or damaged for public use, or for the use of such corporations, the compensation to the owner shall be ascertained in such manner as may be prescribed by general law; *Provided*, That when required by either of the parties, such compensation shall be ascertained by an impartial jury of twelve freeholders.

use without compensation, etc.

Compensation; how ascertained.

When compensation shall be ascertained by jury.

2. The public uses for which such private property may be taken or damaged, are as follows:

Purposes for which private property may be taken.

*First*—For the construction of railroads, canals, turn-pike roads, county roads, public landings, bridges, and public streets and alleys.

*Second*—For incorporated companies of which the state is sole or part owner.

*Third*—For court houses and other public buildings for the use of a county or municipal corporation.

*Fourth*—For cemetery associations.

*Fifth*—For companies organized for the purpose of transporting carbon oil by means of pipes or otherwise.

*Sixth*—For telegraph and telephone companies.

*Seventh*—For public school houses and all other purposes of public utility which now are or may be prescribed by law.

*Eighth*—By the government of the United States for the purpose of erecting thereon lighthouses, signal stations, beacons, locks, dams, works for improving navigation, post offices, custom houses, court houses, or any other needful public structure, or work of improvement whatever, subject to the provisions of chapter one of this code.

But no land shall be so taken for cemetery purposes, which lies within four hundred yards of a dwelling house, unless to extend the limits of a cemetery already located, and then only so that such limits shall not be extended nearer to any dwelling house which is within four hundred yards.

Exception as to land for cemetery purposes.

*To Whom the Application Must Be Made.*

3. In any case in which real estate may be lawfully taken for a purpose of public utility, application may be made to the circuit court of the county in which the estate is situated, to appoint commissioners to ascertain a just compensation to the owners of the estate proposed to be taken. If a tract lie partly in one county and partly in another, the application in relation thereto, may be made in either county.

Application must be made to circuit court of county where land lies.

If land lie in different counties, application may be made in either.

*Against Whom the Proceedings May Be Instituted.*

4. The proceeding may be instituted jointly against all

Against whom proceedings to be instituted.

the owners of the real estate proposed to be taken, lying within the county, including tracts lying partly therein and partly in an adjoining county, or it may be instituted against the owners of one or more parcels.

*What the Application is to State.*

Application must be made in writing; what must be stated therein.

5. The application must be in writing, describing with reasonable certainty the real estate proposed to be taken, and stating (so far as they are known to the applicant), the names of the owners of each parcel and the nature of their respective interests. If there are any liens on such real estate, created by judgment, deed of trust or otherwise, or conflicting claims thereto, the petition shall state the nature and amount of such liens and claims, and the names and residence of the persons holding the same as far as they are known. It must also state the purpose to which the said estate is intended to be appropriated, and may state the sum of money which the applicant is ready to pay therefor to the owner of each parcel.

*Notice of the Application.*

Notice of application.

6. Of such application ten days' notice shall be served on the said owners, claimants and persons holding liens, and the notice may be given either before the application is presented or afterwards. But where the owners of all or any part of the real estate proposed to be taken, or the persons holding such liens or conflicting claims, or any of them, are not in the county or are unknown to the applicant, the notice as to them, instead of being thus served, may be given by advertisement containing (by reference to a plat filed for the purpose in the office of the clerk of the circuit court or otherwise) a specific description of the property in which they are interested that is proposed to be taken, and stating the purpose to which it is intended to be appropriated, and the time and place at which a hearing will be asked for upon the said application, which advertisement must be published at least once a week for four weeks successively in some newspaper printed in the county; or if none be printed therein, then in some newspaper of general circulation in the county; and must also be posted at the front door of the court house of the county four weeks at least before the hearing.

Notice by publication in certain cases.

What notice to contain.

*Parties Under Disability or Unknown.*

Parties under disability; how notice served.

7. If an owner or person holding such lien or claim be under disability, and there be a guardian or committee for him, such guardian or committee shall be notified; but if there be no guardian or committee, or if any such owner or person be unknown, the court shall appoint a guardian *ad litem* to defend their respective interests, and may direct the expense of such guardian *ad litem*, including a

When guardians *ad litem* appointed; his

reasonable docket fee, to be fixed by the court, but not to exceed twenty dollars, to be taxed in the costs and paid by the applicant. duties and compensation.

*When Further Notice May Be Required.*

8. On the hearing, if it appear that there is any person who ought to be notified of the proceeding, to whom proper notice has not been given, the court shall make an order staying the proceeding until proper notice has been given to such person. When further notice may be required.

*When the Owner Accepts the Sum Offered.*

9. If the applicant has stated in his application the sum of money he is ready to pay to any owner for his interest in the real estate, or any parcel thereof, proposed to be taken, and such owner, not being under disability, consent to accept the same, and there be no lien on, or conflicting claims thereto, the court shall make an order that, on such payment being made, the interest of the said owner shall be thereby transferred to the applicant, and a copy of such order, with the receipt of the said owner for the money written thereon, or annexed thereto, shall operate as a conveyance, with special warranty, and may be acknowledged for record, and recorded in like manner and with like effect. Order to be made when owner accepts sum offered. Effect of such order.

*Appointment of Commissioners.*

10. But, except in the case specified in the preceding section, upon its appearing that proper notice has been given, and that the case is one in which the applicant has lawful right to take private property for the purposes stated in the application, upon just compensation, five disinterested freeholders shall be appointed commissioners to ascertain what will be a just compensation to the person entitled thereto, for each parcel of real estate proposed to be taken. No person shall be deemed interested or incompetent to act as commissioner, by reason of his being an inhabitant of the county, district, or municipal corporation, on behalf of which the application was made, or holding property therein. Commissioners to be appointed to appraise property.

11. The appointment shall be made as follows: Thirteen disinterested freeholders shall be nominated by the court, of whom the applicant may strike off four or any less number from the list, and the defendants, or such of them as appear or are represented, may also strike off four or any less number, and after eight names are stricken from the list, the remaining five shall be the commissioners. But where there is no appearance for the defense, or the defendants who appear or are represented do not agree as to any one or more of the names to be stricken off on their How commissioners selected.

behalf, or the right to strike off any one or more names is waived on the part of either the applicant or defendant, or from any cause the full number shall not be stricken off by the parties, the names or additional names, as the case may be, to be stricken from the list in order to reduce the number to five, shall be ascertained by lot under direction of the court. Vacancies shall be filled, and any commissioner, for good cause shown, may be removed by the court.

Vacancies; how filled.

*Duties and Powers of the Commissioners.*

Oath of commissioners.

12. Before entering upon the discharge of his duties, each commissioner shall take an oath before some person authorized by law to administer the same, that he will honestly and impartially perform his duties as such commissioner to the best of his skill and judgment; which oath shall be certified by the person administering the same, and filed with the papers of the case, in the office of the clerk of the court.

How certified and where filed.

Any three of commissioners may act.

13. Any three of the said commissioners may act in the absence of the others, and any one of them may sign and issue subpoenas for witnesses in like manner as a justice, and with like effect; and may swear any witness who appears before them, that the evidence which he will give relating to the matters to be reported upon by the said commissioners, shall be the truth, the whole truth, and nothing but the truth. They may adjourn their sessions from time to time, as shall be necessary; and any person interested may attend in person or by attorney, produce and examine witnesses, read depositions duly taken, and other proper evidence, and be heard, if he require it, in support of his rights, according to the usages and rules of law.

May issue subpoenas for and swear witnesses.

May adjourn from time to time.

Persons interested may appear at hearing, etc.

*Report of the Commissioners.*

Report of commissioners; what to be ascertained.

14. As to each tract, the commissioners, after viewing the same, and hearing any proper evidence which is offered, shall ascertain what will be a just compensation to the person entitled thereto, for so much thereof as is proposed to be taken, and for damage to the residue of the tract, beyond the peculiar benefits to be derived in respect to such residue from the work to be constructed, or the purpose to which the land to be taken is to be appropriated, and make report to the following effect: "We, the undersigned, commissioners appointed by the circuit court of — county, by an order made on the — day of — on the application of —, respectfully report that, having been first duly sworn, we have viewed the real estate owned by —, mentioned in the said application, and are of the opinion that — will be a just compensation for so much of the said real estate as is proposed to be taken by the

Form of report.

said applicant; that is to say: (here describe the part to be taken, so as to identify the same with reasonable certainty, which description may be by reference to a plat annexed to the report, or in any manner that would be sufficient in a conveyance); as well as for damages to the residue of the said real estate beyond the peculiar benefits which will be derived in respect to such residue from the work to be constructed (or from the purpose to which the part to be taken by said applicant is to be appropriated.) Given under our hands this day of —."

15. The report shall be signed by at least three of the commissioners, and forthwith returned to the clerk's office of the court, to be filed with the papers of the case.

By whom report signed. Where returned and filed.

16. When the proceeding is instituted jointly against the owners of different tracts, a separate report shall nevertheless be made as to each tract; and such reports may be made at different times, and a separate hearing had upon each report, which shall be confirmed, recommitted or set aside, upon its own merits or defects.

Report in case of proceedings against owners of different tracts.

How such report disposed of.

#### *Proceedings on the Report.*

17. When such report is returned and filed as aforesaid, either party may file exceptions thereto, and demand that the question of the compensation to be paid be ascertained by a jury, in which case a jury of twelve freeholders shall be selected and impaneled for the purpose, in such manner as the court shall direct. But no person shall sit on such jury who may be the owner of or interested in, any land over or through which said railroad will pass. The cause shall be tried as other causes in said court, and the jury, in ascertaining the damage, or compensation to which the owner of the land proposed to be taken is entitled, shall be governed by section fourteen of this chapter. If no exceptions be filed to such report, or if neither party demand a trial by jury as aforesaid, the court, unless good cause be shown against it, or it be defective or erroneous on its face, shall confirm said report, and order it to be recorded in the law order book of the court; but the said court may, nevertheless, if it seem proper, refuse to hear the case upon the said report, until notice of such hearing be given to the parties interested, their agents or attorneys, or any one or more of them, as the court may order.

Proceedings on return of report.

When court shall order jury to ascertain compensation.

How cause tried.

By what jury governed.

If no exceptions to report, it shall be confirmed.

Notice of hearing may be required, to parties in certain cases.

#### *Payment of the Compensation Reported—Its Effect.*

18. At any time within three months after the report has been confirmed and ordered to be recorded, or where such report has already been confirmed, at any time within three months after this chapter takes effect, the sum so ascertained, with legal interest thereon from the date of the report until payment, may be paid by the applicant to the persons entitled thereto, or into court.

Payment of compensation; within what time.

To whom to be paid.

Upon such payment, the title to that part of the land so paid for, shall be absolutely vested in fee simple in the applicant, except that in a case of a turnpike or other road (not including, however, a railroad), the right of way only shall be so vested.

*Report Set Aside or Recommitted.*

When report may be set aside or recommitted.

New commissioners may be appointed.

19. If good cause be shown against the report, or if it be defective or erroneous on its face, the court, as may seem to be proper, may set it aside, or recommit it to the same commissioners for further report; or other commissioners may be appointed in the manner hereinbefore provided, with or without further notice, as the court may order. If the commissioners report their disagreement, or fail to report in reasonable time other commissioners may in like manner be appointed. And so again, from time to time, as often as may be necessary.

*Payment After the Report is Made or Set Aside, etc.—Its Effect.*

When applicant may pay compensation specified in report, though it be set aside.

May enter upon land, etc.

Not to be interfered with by injunction, etc. except in case of insolvency, etc.

20. After such report has once been made, whether it be set aside, recommitted, or new commissioners appointed or not, or whether a trial by jury be demanded and had or not, the applicant, upon paying into court the sum ascertained by such report, with legal interest thereon from the date of the report until payment, may, notwithstanding the pendency of further proceedings, enter upon, take and use for the purpose specified in the application that part of the land in respect to which such payment is made; and where such payment has been made and possession taken, or where payment has been made without taking such possession, in a pending case, it shall have the same effect as if such payment were made or possession taken, or both, in a case hereafter commenced. And no order shall be made, or any injunction awarded, by a court or judge, to stay him in so doing, unless it be manifest that the applicant is insolvent, or that he or his officers, agents or servants are transcending their authority, or that such interposition is necessary to prevent injury which cannot be adequately compensated in damages.

*Subsequent Report.*

Proceedings on subsequent report.

21. When, after such payment into court as is mentioned in the preceding section, a subsequent report is made which is confirmed and ordered to be recorded, or the verdict of a jury is found, if the sum ascertained by such subsequent report or verdict exceed what was so paid, and the applicant fail to pay the same, judgment shall be given against him for the amount of such excess, with legal interest thereon from the date of such subsequent report or verdict until payment; but if what was so paid exceed

the sum ascertained by such subsequent report or verdict, the excess shall be paid back to the applicant out of the fund in court, or by the persons to whom the same shall have been paid. If the sum ascertained by such subsequent report or verdict do not exceed the sum ascertained by the former report, the party on whose motion the former report was set aside, recommitted or other commissioners appointed, or trial by jury demanded, if he be a defendant therein, shall pay the costs occasioned by such motion, unless such former report was set aside, recommitted or other commissioners appointed on some other ground than that of insufficiency of compensation.

If previous payment exceed the sum reported, excess to be paid back, etc. Costs of subsequent report; when paid by owners of land.

22. When judgment is rendered against the applicant pursuant to the last section, for any excess ascertained by such subsequent report, with interest, the applicant shall thereafter have no right to the possession of the land until the judgment is satisfied. But from the time of such satisfaction by the payment of the money to the persons entitled thereto, or into court, or from the time of the confirmation of the subsequent report, if no additional compensation be thereby ascertained, the title to that part of the land for which such compensation has been made shall be absolutely vested in the applicant in fee simple, except as before excepted in case of a turnpike or other road.

When judgment is rendered against applicant for excess, etc., he must pay before he can occupy the land. When title to land becomes absolute, etc.

*How the Money Paid into Court is to be Disposed Of.*

23. To enable the court to dispose properly of any money so paid into court, it may have inquiry made by a commissioner to ascertain what persons are entitled thereto, and in what proportions, and may direct publication to be made requiring all who are interested to appear before the commissioners, that their respective claims may be passed upon. Upon report of the commissioners, or from the evidence before it without such report, the court shall make such disposition of the money as may seem to it right.

Proceeding to enable court to dispose properly of any money paid into court. Report of commissioner and proceedings thereon.

*Costs of the Proceedings.*

24. If the applicant has stated in his application the sum of money which he is ready to pay to the owners for any parcel of land proposed to be taken, and it appear by a report confirmed and ordered to be recorded, or by a verdict of a jury, that he is entitled to take the said parcel for the purpose mentioned in his application, without paying any greater compensation therefor, he shall be adjudged his costs in respect to the said parcel, out of the compensation to be paid therefor to the said owners.

When costs to be paid by owner of land.

25. In cases not otherwise provided for, the applicant shall pay the cost of the proceeding.

When paid by applicant.

26. The commissioners appointed to ascertain the just compensation to be paid shall be entitled to two dollars

Compensation of commissioners or jurors



Upon what  
proof allowed.

each for every day they are employed in the performance of their duties, and their own affidavit shall be received as evidence in that behalf. And the jury, if one be impaneled, as hereinbefore provided, shall receive the same compensation as said commissioners, to be taxed in both cases, in the bill of costs, and paid as provided in the next two preceding sections, and section twenty-one of this chapter.

This chapter to  
apply to cases  
now pending,  
etc.

27. This chapter, as amended, shall apply as well to cases for the condemnation of lands or materials, or both, now pending in any court, as to cases hereafter brought.

Cases pending  
in United  
States' Courts,  
hereafter  
remanded, how  
proceeded in.

28. If a case heretofore commenced in a county court has been transferred to a district or circuit court of the United States, and such court shall for any cause remand the same, it may be remanded to the circuit court of the county, from which it was so transferred, and the clerk of said court shall receive and docket the same in the same manner and with like effect as if it had been transferred to said court under the provisions of chapter thirty-nine of this code.

#### *Acts Repealed.*

Acts repealed.

2. Chapter one hundred and fourteen of the acts of one thousand eight hundred and seventy-five, entitled, "an act amending certain sections of chapter forty-two of the code of West Virginia, for taking lands for public purposes without the owner's consent," approved December twenty-nine, one thousand eight hundred and seventy-five, and all other acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XIX.

AN ACT to amend and re enact chapter forty-one of the code of West Virginia, concerning certain general provisions respecting sheriffs, collectors and jailors; the service and return of process; and property exempt from execution and homesteads.

[Passed March 11, 1881.]

Be it enacted by the Legislature of West Virginia:

Code amended.

1. That chapter forty-one of the code of West Virginia

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

CHAPTER XLI.

CERTAIN PROVISIONS RESPECTING SHERIFFS AND JAILORS—  
THE SERVICE AND RETURN OF PROCESS—PROPERTY EXEMPT  
FROM EXECUTION, AND HOMESTEADS.

*How Process may be Served when the Sheriff is Interested.*

1. The county court of every county shall designate one or more constables thereof to serve process and levy executions in cases where the sheriff of the county is a party defendant, or is under any other disability. Constable to be designated to serve process in certain cases.

2. When, from any cause, it is unfit for the sheriff to summon a jury, or execute any process or order (including executions), such jury shall be summoned by some person appointed for the purpose by the circuit court, or the judge thereof in vacation; and such process or order may be executed by any constable in the county to whom it is delivered for execution, or by any person appointed for the purpose by the court or the judge thereof in vacation. The process or order in such case may be directed to the constable, or to the person appointed as aforesaid; but the execution and return thereof, if in other respects duly made, shall be valid, though it be directed to the sheriff. Jury; how summoned in cases where it is not proper for sheriff to act.

3. The constable, or person appointed as aforesaid, when acting under either of the last two sections, shall have the same power and liabilities as a sheriff in similar cases, and shall be entitled to like fees. And the like redress may be had against such constable, or other person and his sureties, if there be any, for any neglect or default in the performance of the duty assigned to him, under either of said sections, as could be had against a sheriff or his sureties, if such sheriff had been guilty of a like neglect or default. Powers and liability of officer in such cases.

*Where Process May be Executed.*

4. Every officer by whom any process or order may be lawfully executed shall execute the same within his bailiwick, or upon any river or creek adjoining thereto. Where process may be executed.

*Of Commanding the Power of the County.*

5. Such officer may, in case resistance be made or apprehended to the execution of such process or order, summon to his assistance, either orally or by writing, so many of the male inhabitants of his county of the age of eighteen years or more, or require the commandant of any company, regiment or separate battalion of militia or volunteers, to call out such portion, or the whole thereof, to assist him, as shall be deemed sufficient for the occasion; and he and When power of the county may be commanded to aid in execution of process.

Penalty for disobedience in such cases.

those assisting him, may use such force as shall be necessary or proper to overcome any resistance made to the execution of said process or order, and to seize, arrest and confine the resisters, their aiders and abettors, to be dealt with according to law. If any male inhabitant of the county of the age of eighteen years or more fail to obey such summons, or if any commandant fail to comply with such requisition, the officer shall report the fact to the court from which such process or order issued, which court may, in a summary way, after notice to the person so reported, adjudge him to be fined or imprisoned, or both, as for contempt. Or if the process or order was not issued by a court, the person so failing to obey such summons or requisition shall be punished as for a misdemeanor, and to that end the officer shall report him to the prosecuting attorney for the county.

*Of the Execution and Return of Process.*

Execution and return of process.

6. Every officer to whom any process or order is lawfully delivered for execution, shall, without avoidable delay, execute the same according to the command thereof and the provisions of law, and make true return thereon at the proper time and place, stating in such return the time and manner of executing the same, or why the same was not executed, and shall subscribe his name to such return. When the service is by deputy, such deputy shall subscribe to the return his own name as well as that of his principal. With the order or process there shall be returned any bond taken, and an account of any sale made under the same, specifying therein the several articles sold, and the prices thereof. The service of process, when person or property is not to be taken into custody, or it is not otherwise specially provided, shall be subject to the regulations contained in the several sections from thirty-two to thirty-nine inclusive of chapter fifty of this code.

Return; to whom made.

7. Such return shall be made to the court, justice, person or office from which such process or order issued, unless in such process or order it is directed to be otherwise returned, in which case return thereof shall be made according to such direction. Where a sale is made under any process or order, and no particular time for the return thereof is prescribed therein or by law, the return shall be made within thirty days after the sale. But if no particular time be prescribed in the process or order, or by law, for the return thereof, and no sale is made under the same, the return shall be made immediately after such process or order is executed; or, if it be not executed, within two months after its date.

Penalty for neglect of duty and false return.

8. Except when the process or order is issued by a justice, any officer failing to comply with either of the last

two sections shall forfeit twenty dollars ; and if he make a false return, shall forfeit therefor one hundred dollars.

9. A judgment in a prosecution under the preceding section for failure to make proper return of any process or order, or to subscribe the return as aforesaid, shall be no bar to further proceedings, if the failure be continued ; but there shall be a further forfeiture by the officer, who ought to have made such return, of twenty dollars for every month subsequent to the judgment that the failure shall continue, until it appear that the return cannot be made ; or if it be the case of an execution or warrant of distress, until it appear that the amount thereof has been paid to the party entitled. Moreover, the court to which, or to the clerk's office of which, such return ought to be made, may, upon the motion of any party injured, and for his use, fine such officer and his sureties, or any one or more of them, or any deputy in default, a reasonable sum, and from time to time impose on him or them other reasonable fines, not exceeding altogether, in the case of an execution or warrant of distress, the rate of five dollars for every hundred dollars therein mentioned for each month that the failure to make such return shall have continued.

Judgment no bar to further prosecution if failure continue.

Penalties for such case.

Remedy of party injured in such case.

10. Proof that any process or order was put into the post office, in an envelope or cover properly addressed to any officer, and that the postage thereon was paid, shall be *prima facie* evidence of the receipt thereof in due course of mail by the officer, to whom it was so addressed ; and this evidence may be furnished by the receipt taken at the time the process or order was put into the post office, from the postmaster, his deputy or clerk, and the certificate of a justice of the acknowledgment of the receipt before him. But such evidence may be rebutted by the oath of the officer to whom such process or order was so addressed, that he did not himself receive the same, and believes that it was not received by any of his deputies.

What proofs amount to prima facie evidence of receipt of process mailed to officer.

How such evidence rebutted.

11. A sheriff or other officer may transmit by mail (the postage thereon being prepaid) any process or order which came to his hands from beyond his county, with his return thereon, in an envelope or cover properly addressed to the officer to whom or whose office such return ought to be made ; and the receipt taken at the time from the post master, his deputy or clerk, certified as aforesaid, shall be evidence that the process, or order and return, were transmitted as aforesaid.

Return of process by mail ; when and how made by officer.

What receipt evidence of such return.

*Bonds Taken for Persons in Custody—When Void.*

12. No officer, by color of his office, shall take any obligation otherwise than is directed by law, of or for any person in his custody. If he does, the same shall be void.

Bonds given by persons in custody, void when not authorized by law.

*Privilege from Arrest.*

Who are privileged from arrest; when.

13. Voters and members of the legislature shall be privileged from arrest, as prescribed by the third section of article four, and the seventeenth section of article six of the constitution.

Also, a judge, grand juror or witness.

14. The following persons shall also be privileged from arrest under civil process, except for an escape, to-wit: A judge, grand juror, or witness, required by lawful authority to attend at any court or place during such attendance, and while going to and from such court or place; officers and men, while going to, attending at, and returning from any muster or court-martial which they are lawfully required to attend; persons attending funerals, and ministers of the gospel while engaged in performing religious service in a place where a congregation is assembled, and while going to and returning from such place. Such privilege shall only be on the days of such attendance, and an additional day for every twenty miles traveled in going and returning.

Persons attending musters. Persons attending funerals, and ministers.

How long privilege to continue.

*Civil Process Not to be Executed on Sunday.*

Process not to be executed on Sunday; exception.

15. No civil process or order shall be executed on Sunday, except in cases of persons escaping from custody, or where it may be specially provided by law.

*Of Payments Made to Officers in Certain Cases—What Orders to be Received, etc.*

When and in what cases orders on county treasury to be received by sheriff in payment of taxes, etc.

16. Every officer charged with the collection of taxes, county and district levies, militia fines and officers' fees, shall receive in payment therefor, at par, any county or school order or draft, drawn on him pursuant to law, which is then due and payable, if the person offering the same in payment be the person entitled thereto at the time it is so offered. And if the amount due on such order or draft be more than the amount to be collected from the person so offering the same in payment, the officer shall pay the balance due thereon, if he have in his hands any money applicable to such payment; and if not, he shall endorse thereon the amount of taxes, levies, fines or fees held by him against such person, and that he has no money in his hands applicable to the payment of the balance thereof.

*Officers' Receipts.*

Receipt to be given by officer for taxes, etc., collected by him.

17. Every such officer shall deliver to each person who pays him, or from whose property he makes any taxes, county or district levies, militia fines or officers' fees, a receipt for all that is so paid or made, with a statement showing how much thereof is for taxes, how much for levies, how much for militia fines, how much for officers

What receipt must state.

fees, and also the bills for such fees. Any officer failing therein shall forfeit to such person not less than five nor more than twenty dollars. Penalty for failure.

*Of Distraint, or Levying and Selling.*

18. No growing crop of any kind (not severed) shall be liable to distress or levy, except Indian corn, which may be taken at any time after the fifteenth day of October in any year. When growing crops, etc., liable to levy.

19. The officer shall in no case make an unreasonable distress or levy. For horses or any live stock distrained or levied upon, he shall provide sufficient sustenance while they remain in his possession. Nothing distrained or levied upon shall be removed by him out of his county, unless where it is otherwise specially provided. Officer not to make unreasonable distress or levy. To provide sustenance for live stock. Not to be removed out of county; exception.

20. In any case of goods or chattels which an officer shall distress or levy upon, otherwise than under an execution or order issued by a justice, or under an attachment, and in any case of goods or chattels which he may be directed to sell by an order of a court or judge, unless such order prescribes a different course, he shall fix upon a time and place for the sale thereof, and publish notice of sale at least ten days (or if the goods and chattels be mules, work oxen or horses, at least twenty days), by posting the same at the door of the court house of his county and some other conspicuous place near the residence of the owner, if he reside in the county. At the time and place so appointed, the officer shall sell to the highest bidder for cash, except as hereinafter provided, the said goods and chattels, or so much thereof as may be necessary. Notice of sale to be given by officer.

21. If such goods and chattels be mules, work oxen, or horses, they shall be sold at the court house of the county or corporation, between the hours of ten in the morning and four in the afternoon. The sale shall be on the first day of the term of the circuit or county court thereof next succeeding the publication of notice of sale, as aforesaid, except when the parties shall, in writing, authorize the officer to dispense with the provisions of this section, in which case the sale shall be according to the preceding section. Mules, work-oxen and horses to be sold at court house. Exception.

22. When there is not time on the day appointed for any such sale to complete the same, the sale may be adjourned from day to day, until it shall be completed. Before any such sale shall be made, if the judgment debtor, his agent or attorney, or in their absence, his wife so desire, the property to be sold shall be appraised by separate items, by two disinterested householders of the district in which the levy is made, or where the debtor resides, if he reside in the county, one to be selected by the judgment debtor, his agent or attorney, or in their absence, his wife, and the Same may be adjourned from day to day; when. Property to be appraised; how appraisers appointed.

other by the judgment creditor, his agent or attorney, or in their absence by the officer in whose hands the execution, order of sale or other process is, who, after being duly sworn, for the purpose, shall appraise, at its fair cash value, each item of property to be sold, reduce their appraisal to writing, and sign the same, and deliver it to the officer whose duty it is to make the sale. If they disagree as to the value of any item of property to be sold, the said officer shall, on his official oath, act as umpire in the case, and his decision and that of one of said appraisers shall determine the value of such item. Such appraisal shall be returned by the officer, with the execution, order of sale or other process. Each item of property so appraised shall be sold separately, if the appraised value thereof be more than five dollars; and if, when offered for cash, the highest bid therefor amount to two-thirds or more of its appraised value, the sale thereof shall be for cash. But if no bid be made therefor amounting to two-thirds of said appraised value, the same shall then be offered for sale, one-half on a credit of four months, and the residue on a credit of eight months, the purchaser giving his notes with good security, bearing interest from date for the purchase money; and if, when so offered, a greater sum be bid therefor than was offered in cash, the sale shall be made on credit, as aforesaid; otherwise, the cash bid shall be received therefor. The notes so taken on such sale when made on credit, shall, if not paid to the officer when due, be returned by him to the office of the clerk of the court from which such execution, order of sale, or other process issued, who shall endorse thereon the date of such return, and from that day they shall have the force of judgments, and executions may be issued thereon by the court upon five days' notice in writing to the person who executed the same, or their personal representatives, if they or any of them be dead. But this section shall not apply to sales for taxes, levies, fines or forfeitures to the state, or to a sale made under any process or order of sale in favor of the state. All moneys paid to such officer on any such note shall be regarded as so much money received by him on the execution, order of sale or other process under which the sale was made, and the officer shall endorse the same on the execution, order of sale or other process, whether the same has been returned or not, at the time such payment is made.

*Of Personal Estate Exempt from Distress or Levy.*

Exemption of certain property from distress or levy.  
Amount of such exemption.

23. Any husband or parent residing in this state, or the widow, or the infant children of deceased parents, may set apart and hold personal property to the value of not exceeding two hundred dollars, to be exempt from execution or other process, except as hereinafter provided. And any mechanic, artisan or laborer residing in this state,

whether he be a husband or parent, or not, may hold the working tools of his trade or occupation to the value of fifty dollars exempt from forced sale or execution. *Provided*, That in no case shall the exemption allowed any one person exceed two hundred dollars.

Tools of me-  
chanics, etc.,  
exempt to  
amount of \$50.  
Exemption not  
to exceed \$200.

24. When a debtor claims personal property as exempt under the provisions of this chapter, he shall deliver to the officer holding the execution or other process, a list by separate items, with the value of each item, according to the belief of the debtor, of all personal property and estate owned or claimed by him, including money, bonds, bills, notes, claims and demands, with the residence of the person against whom said bonds, bills, notes, claims and demands are, and shall verify such list and valuation by affidavit, which affidavit shall also show that the debtor is entitled to such exemption, and shall specify the character in which he claims to be so entitled, as for example, "that he is a husband." If the value of the property named in said list exceeds, as stated therein, two hundred dollars, the debtor shall state at the foot thereof what part of said property he claims as exempt, as aforesaid; but if such value does not exceed two hundred dollars, as so stated, the claim of exemption shall be held to extend to the whole thereof without more saying; and if no appraisement thereof be demanded, as hereinafter provided, the property so claimed shall be set apart to the debtor as exempt as aforesaid. If the husband be absent, or incapable of acting, or neglect or decline to act, the claim may be made, the list delivered and the affidavit made by the wife with the same effect as if made by the husband. The officer shall immediately, upon receipt of the list, exhibit the same to the creditor, his agent or attorney. If the creditor, his agent or attorney, demand an appraisement thereof, within five days after the delivery of the list to the officer, two disinterested householders of the neighborhood shall be chosen, within twenty-four hours of such demand, one by the debtor, his agent or attorney, or in their absence or failure to act, by his wife, and the other by the creditor, his agent or attorney, and these two, if they cannot agree, shall select a third; but if either party fail to choose an appraiser, or the two fail to select a third, or if one or more of the appraisers fail to act, the officer shall fill the vacancy:

How and by  
whom claim of  
exemption  
made.

Proceedings  
thereon.

Appraisers; how  
appointed.

25. The appraisers shall forthwith proceed to make a list by separate items, of the personal estate selected by the debtor, to the value of two hundred dollars, as near as may be, affixing to each item the value they may agree on, and annexing to the list their affidavit to the following effect: "We solemnly swear that, to the best of our judgment, the above is a fair cash valuation of the property therein described;" which affidavit shall be signed by two appraisers at least, and be certified by some person authorized to

Proceedings of  
appraisers.

Oath of ap-  
praisers.



List, to whom delivered.

administer oaths. The list shall be delivered to the officer holding the execution, order of sale or other process, and be by him annexed to and made part of his return; and the property therein specified shall be exempt from levy and sale, and the other personal estate of the debtor remain subject thereto. The officer shall also annex as part of his return the list specified in the twenty-fourth section. When an attachment or suggestion has been served on a person owing a claim or demand to the debtor which is by him exempted as aforesaid, the officer shall upon request release such claim or demand by giving the debtor, his wife, agent or attorney, a written certificate of such exemption, which certificate shall be delivered to the person owing the claim or demand, who shall thereupon be entitled to pay the same to the debtor. And any officer who shall sell any property so claimed as exempt, after the provisions of the twenty-fourth section have been complied with by the debtor, his agent, attorney, or wife, shall forfeit to such debtor double the value of the property so sold, which forfeiture may be recovered from the officer and his sureties in his official bond in any court having jurisdiction in the case. And any officer failing to release any money or property in his control which shall have been exempted as aforesaid, or fail to deliver the same if in his possession, to the debtor, his agent, attorney or wife, upon request, shall forfeit to the debtor five dollars for each day such failure may continue, which forfeiture may be recovered from the officer and his sureties in an action upon his official bond in any court having jurisdiction. In an action on such bond or on an indemnifying bond taken by such officer, defense may be made on the ground that the debtor was not entitled to exemption as stated in the affidavit accompanying his list.

Penalty on officer selling property exempted.

Penalty on officer failing to release property exempted.

Defence by officer.

Compensation of appraisers.

How paid.

26. The appraisers shall each be entitled to fifty cents, to be paid by the creditor if it appear that the property claimed by the debtor, as exempt, did not exceed two hundred dollars in value; otherwise to be paid by the debtor.

Exemption to extend to widow and minor children of deceased parents.

27. After the death of a husband or parent residing in this state, his widow or minor children, or such of them as there may be, may select personal estate of the deceased, not exceeding two hundred dollars in value, and hold the same exempt from any debts or liabilities of the husband or parent, contracted or incurred by the deceased in his lifetime. But the personal representative or any creditor of the deceased may have the personal estate so selected appraised as prescribed in the last three sections, and with like effect; and no greater amount than two hundred dollars of the personal estate of the deceased shall be exempt by virtue of this and the four preceding sections; and, if during his lifetime, he had himself set apart personal estate to be exempt from execution and other pro-

cess, the same shall be subject thereto after his death, so far as it is not selected as aforesaid by his widow and minor children, or such of them as there may be.

28. No exemption claimed under the five preceding sections, or any of them, shall affect or impair any claim for the purchase money of the personal estate in respect to which such exemption is claimed, or any proceeding for the collection of taxes or county or district levies.

No exemption allowed in certain cases.

29. The circuit court of the county, or judge thereof in vacation, on motion of any person aggrieved, may set aside any appraisement made as aforesaid, and order a new appraisement to be made and returned, and appoint appraisers for that purpose, and make such order respecting the costs as may be deemed just.

Circuit court may set aside appraisement, etc.

*Homesteads.*

30. Any husband or parent residing in this state, or the infant children of deceased or insane parents may hold a homestead of the value of one thousand dollars, subject to the provisions of section forty-eight of article six of the constitution of this state, upon complying with the provisions of the next section of this chapter.

Homestead exemption.

31. Every husband or parent, and every guardian or curator of any infant child or children of deceased or insane parents, desiring to set apart such homestead, may do so by a writing, executed and acknowledged, in the same manner that deeds are executed and acknowledged, in the following form or to the following effect:

How homestead set apart.

“ This is to certify that I have set apart as a homestead for my own use, (or for the use of ———, the infant child, or children, of ———. deceased, or who is insane, for whom I am guardian or curator, as the case may be,) the following real estate to-wit: All that certain piece or parcel, (or lot, as the case may be,) of lands situate in the county (or counties, as the case may be) of ———, and bounded and described as follows, to-wit: [Here insert such description of the tract or parcel or lot of land as will clearly identify the same.] together with the premises and appurtenances thereunto belonging.

Form of declaration.

“ Witness the following signature and seal, this ——— day ———, 18—.

“————— [Seal.]”

Such writing, when executed and acknowledged as aforesaid, shall be presented to the clerk of the county court of the county in which such real estate or the greater part thereof may be, and the same shall be recorded by said clerk in a book to be provided by the county court and kept by him for that purpose. But no tax shall be charged or paid upon such writing.

Declaration to be recorded by clerk of county court.

Real estate set apart as homestead, exempt from debts and liabilities.

Exception as to purchase money, etc.

Exception as to prior debts.

Homestead not affected by increase in value above \$1,000 00.

Exception as to permanent improvements. Proceedings where a homestead is chargeable with a debt, and exceeds \$1,000 00 in value.

In case of death of husband or parent, to whom benefit of homestead descends.

Judgments against officers and deputies, etc., upon return of process.

How obtained.

32. The real estate so set apart as aforesaid shall from the time such writing as is mentioned in the next preceding section is, or has been, delivered to said clerk for record, be exempt from all debts and liabilities thereafter contracted and incurred, except debts incurred for the purchase money thereof, or for the erection of permanent improvements thereon, and claims for taxes due thereon. But it shall not be exempt from liens and all other debts and liabilities contracted and incurred prior to the delivery of such writing for record as aforesaid. But nothing herein contained shall affect or impair any right acquired under chapter one hundred and ninety-three of the acts of one thousand eight hundred and seventy-two and three.

33. If the homestead so set apart as aforesaid shall not be of greater value than one thousand dollars, at the time of the execution and recordation of said writing, the same shall not be affected by any increase in the value thereof afterwards, unless such increase is caused by permanent improvements made thereon. But any creditor of the person owning said homestead may file his bill in equity, alleging that the value thereof at the time of the execution and recordation of said writing was more than one thousand dollars, or that by reason of permanent improvements made thereon since such execution and recordation, the said homestead is of greater value than one thousand dollars; and if the court shall be satisfied, from the proofs in the cause, that the allegations of said bill are true, it shall make such order or decree as may be necessary to subject such excess of value above the sum of one thousand dollars to the payment of the debt or demand of such creditor. And if more than one creditor shall join in said bill, and their debts or claims be of equal priority, the said excess shall be paid *pro rata* upon the debt or claim of each.

34 In case of the death of a husband or parent owning such homestead, the benefit thereof shall descend to his or her minor children, and shall be held and enjoyed by them as such homestead, until all of the said infants attain the age of twenty-one years, unless they sooner die.

#### *Of Judgments on Certain Motions Against Officers and Their Deputies.*

35. If any officer, or deputy, shall make such return upon any order, warrant, or process issued by a court, or the judge or clerk thereof, as entitles any person to recover money from such officer by action, the court to which, or to the clerk's office of which, such return is made, may, on a motion on behalf of such person, give judgment against such officer and his sureties, and against his and their personal representatives, for so much principal and interest as would at the time such return ought to have been made

be recoverable by such action, with interest thereon at the rate of not less than six nor more than fifteen per cent per annum, (as the court may deem proper) from that time until payment. Where such return is by a deputy, there may also be a like motion and judgment against such deputy and his sureties, and against his and their personal representatives.

36. Where any deputy of a sheriff or collector shall commit any default or misconduct in office for which his principal, or the personal representative of such principal, is liable, for which a judgment or decree shall be rendered against either, such principal, or his personal representative, may, on motion, obtain a judgment against such deputy and his sureties, and their personal representatives, for the full amount for which such principal, or his personal representative, may be so liable, or for which such judgment or decree may have been rendered. But no judgment shall be rendered by virtue of this section for money, for which any other judgment or decree has been previously rendered, against such deputy or his sureties or their personal representatives.

Judgments on motion of principal against his deputies, etc.

37. When any judgment or decree shall be obtained against a sheriff or collector, or his sureties, or their personal representatives, for or on account of the default or misconduct of any such deputy, and shall be paid in whole or in part by any defendant therein, he or his personal representative may, on motion, obtain a judgment or decree against such deputy and his sureties, and their personal representatives, for the amount so paid, with interest thereon from the time of such payment, and five per cent. damages on said amount.

How judgment enforced.

38. Any motion, under either of the two preceding sections, may be made in the circuit court of the county in which the default or misconduct of the deputy occurred or was committed.

Proceedings to be had in circuit court.

*The Sheriff to be Jailor.*

39. The sheriff of every county shall be the keeper of the jail thereof. But he may, with the assent of the county court, appoint a jailor of the said county, who shall take the same oaths as are prescribed for other officers. He may also take from such jailor bond with security, conditioned for the faithful performance of the duties of his office.

Sheriff to be jailor.

Bond may be required.

*Regulations for the Health and Comfort of Prisoners.*

40. The jailor shall cause all the apartments of his jail to be well whitewashed at least twice in every year, and have the same properly aired and always kept clean. He shall furnish every prisoner with wholesome and suf-

Duties of jailor as to health and comfort of prisoners.

ficient food, and with a bed and bedding cleanly and sufficient, and have his apartment warmed when it is proper. In case of the sickness of any prisoner, he shall provide for him adequate nursing and attendance, and if there be occasion for it, and circumstances will permit, shall confine him in an apartment separate from other prisoners. In no case shall a jailor permit the use of ardent spirits in the jail, except when prescribed by a physician.

*Annual Inspection of Jail.*

Circuit court to appoint persons to inspect jail.

Oath to be administered to such inspectors.

Inspectors to be furnished with copy of oath.

Report may be recommitted.

Proceedings on report where jailor or county court are in default.

41. The circuit court of every county shall annually, or oftener, if deemed necessary, appoint three persons, one of whom shall be a physician, to inspect the jail of such county. The judge shall administer to them the following oath: "You shall truly report to the court as to the jail in this county, the size thereof, the number of its apartments, and its state and condition; whether it is secure, sufficient for those who may be confined therein, and such that convicts may be kept in apartments separate from each other and from the other prisoners; whether every apartment is so constructed that it can be kept comfortable; whether it is kept in constant and adequate repair, and supplied with the furniture and other things necessary; and if not, in what it is deficient. You shall also diligently examine and truly report whether or not the jailor has, during the last twelve months, faithfully performed the duties required of him by the fortieth section of the forty-first chapter of the code of West Virginia, and if not, in what respect he has failed to perform the same." The said inspectors shall be furnished for their guide with a copy of the said oath, and of the said section. If they make a report which fails in any respect to conform to said oath, it shall be recommitted to them until they fully report upon all the said matters.

42. If it appear to the circuit court, by such report or other evidence, that the jailor has in any respect failed to perform his duties, the said court may in a summary way, after summoning him to show cause against it, fine him not exceeding thirty dollars. And if it appear that the county court of the county has in any respect failed to perform its duty in relation to said jail, the court may direct the prosecuting attorney to proceed against it for such default, by writ of *mandamus*, in the name of the state, to compel the performance of such duty.

*Whom the Jailor is to Receive.*

Jailor must attend court. What persons must be received by him into his jail.

43. The jailor of every court shall attend it during its session, be amenable to its authority, and obey its orders. He shall receive into his jail all persons committed by the order of such court, or of a judge thereof, or justice of any

district in the county, or under process issuing from such court, and all persons committed by any lawful authority.

44. The jail of any county in which the supreme court of appeals may sit, may be used as a jail for the said court. What jail may be used as jail of court of appeals.

45. The jailor of any county or corporation shall receive into his jail any person committed thereto under the authority of the United States, and keep him safely according to the warrant or precept of commitment, until he shall be discharged under the laws of the United States. But no person arrested on civil process shall, under this section, be committed to any other jail than that of the county within which such person may reside or be found. What other persons received into his jail and when.

46. The jailor shall, for the support of any such prisoner, be paid by the United States, or the creditor at whose suit he is in custody, and for a failure of duty as to any such prisoner, shall be liable to the United States, or such creditor, in like manner as in the case of a prisoner committed under the authority of the state, he would be paid by, or be liable to, the state or a creditor. By whom jailor to be paid for support of prisoners, etc.

*When Persons Committed in One County May be Confined in Jail in a Different County.*

47. When a county is without a sufficient jail, or its jail is to be removed, rebuilt, or repaired, the circuit court thereof may adopt as its jail the jail of another county, until a sufficient jail is obtained by building or repairing. And persons committed, or to be committed, to the jail of the first mentioned county, at or after such adoption, and before a sufficient jail is so obtained, shall be conveyed to the jail so adopted. When prisoner committed in one county may be committed in jail of another, etc.

48. In the recess of the court, and before the jail is adopted under the preceding section, any two justices may, by warrant, direct any person committed, or to be committed, to the jail of such county, to be conveyed by the officer in whose custody he may be to some other jail, to be designated in the warrant. In recess of court two justices may adopt jail of another county.

49. The keeper of any jail so adopted or designated shall, as to the persons so conveyed thereto, be the jailor of the county from which the said persons were so conveyed, until he shall, by proper authority, be ordered to discharge the said persons, or deliver them over to the sheriff of the county from which they were so conveyed. Duty of jailor in relation to persons so confined in his jail.

*How the Jailor is to be Paid for Persons Confined Under Civil Process.*

50. The party at whose instance any person is confined in jail under any civil process, or if he be confined in more than one case, the party at whose instance he was By whom and when jailor to be paid for prisoners confined on civil process.

first taken shall be responsible to the jailor for the fees chargeable on account of such confinement.

How claim of jailor enforced.

51. Payment shall be made, at the end of every thirty days of such confinement, of the fees so chargeable. If such payment be not made, the jailor may, on motion to the circuit court of any county for which he is jailor, after notice to the said party, his personal representative, attorney, or agent, or by action before any justice having jurisdiction, obtain judgment against said party, or his personal representative, for the amount of said fees, with interest thereon from the time payment ought to have been made. Upon the execution on such judgment, the clerk or justice shall indorse that no security is to be taken. And if, on an execution returnable in not less than thirty days, the officer to whom the same is directed shall return that he cannot make the amount thereof, the jailor may discharge the person so confined, if not held under other process. But any jailor may demand, of the creditor or person at whose instance any person is about to be committed to his jail on civil process, a bond, with sufficient security, for the payment of all the jail fees chargeable on account of such confinement, and upon the failure to give such bond, may refuse to receive such person into his jail.

May discharge persons confined if fees be not paid.

Remedy of party making such payment.

52. Any party by whom payment may be made of the fees chargeable to him may, upon motion to the circuit court of such county, or by action before any justice having jurisdiction, obtain judgment against the person who was so confined, or his personal representative, for the amount so paid, with interest thereon from the time of such payment.

#### *How Prisoners are Turned Over by a Jailor—His Successor.*

How prisoners are turned over by jailor to his successor.

53. An indenture between a jailor quitting office and his successor, or an entry upon record in the circuit court of the county, setting forth the names of the several prisoners turned over, at the time of the former's quitting office, to his successor, with the causes for their commitment, shall be sufficient to discharge the former from all suits for any escape that shall happen afterwards.

#### *General Provisions.*

Penalty on sheriff, etc., for misappropriating taxes or money that come into his hands.

54. If any sheriff or other officer charged with the collection of state, county, district or municipal taxes, levies or other public moneys, or the deputy of any such officer, or any officer or person charged with the custody or disbursement of any such taxes or moneys belonging to the state, or to any county or district thereof, or to such municipality, shall in any way misappropriate any part of such taxes or moneys which may come to his hands by virtue

of his office or employment, he shall be guilty of a misdemeanor, and fined not less than one hundred nor more than five hundred dollars, and at the discretion of the court be confined in the county jail not less than two nor more than twelve months.

55. If any such sheriff, collector or deputy, or officer or person charged with the custody or disbursement of such taxes or moneys as aforesaid, shall discount, or directly or indirectly, either alone, or in connection with another, purchase any draft or order made or drawn upon him, payable out of any such taxes or moneys as is mentioned in the preceding section, for a less sum than is specified therein, he shall forfeit five times the amount of such discount, or of the sum less than the amount specified in such draft or order realized by such purchaser, one-half of which shall go to the person entitled to such draft or order at the time of such discount or purchase, and the other half to the state, county, district or municipality, as the case may be.

Penalty on sheriff, etc., for discounting, etc., any draft, or order drawn upon him, payable out of any taxes, etc., in his hands

How forfeit disposed of.

56. If any such officer as hereinbefore mentioned shall fail or refuse to pay any draft or order lawfully drawn upon him, when he has, or by the use of due diligence in the collection of the taxes and moneys applicable to the payment of such draft, or order, might have had, in his hands, moneys sufficient to pay the same, he shall be guilty of a misdemeanor, and fined not less than one hundred nor more than five hundred dollars, one half of which fine shall go to the person injured by such failure or refusal, and the other half to the state.

Penalty on officer for failure to pay draft, etc., drawn on him.

How fine disposed of.

57. If any officer whose duty it is to collect or disburse any state, county, district or municipal taxes or moneys, shall fail to pay over and account for the same, or any part thereof, as required by law, in any year, the proper state, county, district or municipal authority or authorities may withhold from such officer the collection of any such taxes or moneys, or the disbursement thereof, for the next succeeding year, and may appoint a collector or disbursing officer of such taxes or moneys in lieu of such officer in such manner as is or may be proscribed by law. The court, board, council, officer or officers making such appointment shall take from such collector or officer a bond with good security, in a penalty double the amount of the moneys which will probably come into his hands by virtue of his appointment, payable to the state of West Virginia, and conditioned as the law directs.

Officer failing to pay over as required by law taxes, etc., collected; what then.

Collector, etc., may be appointed in lieu of officer so failing.

Bond of appointed officer.

*Acts Repealed.*

2. All acts and parts of acts coming within the purview of this chapter, and inconsistent therewith, are hereby repealed.

Acts repealed.



[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XX.

AN ACT to amend and re-enact chapter one of the code of West Virginia, concerning the limits and jurisdiction of the state.

Be it enacted by the Legislature of West Virginia :

Code amended.

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

### CHAPTER I.

#### LIMITS AND JURISDICTION OF THE STATE.

##### *Counties Included in the State.*

Territorial lim-  
its of the State.

Counties.

1. The state of West Virginia includes all the territory formerly belonging to the state of Virginia, and now comprising the following counties, to-wit: Barbour, Berkeley, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Harrison, Hardy, Jackson, Jefferson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Nicholas, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzell, Wirt, Wood, and Wyoming.

##### *Jurisdiction Over Certain Rivers.*

Jurisdiction  
over certain  
rivers.

2. The jurisdiction of this state also extends over all the rivers which are boundary lines between this and any other state, to the opposite shore, where there is no statute or compact to the contrary.

##### *Certain Lots in the City of Wheeling.*

Concurrent  
jurisdiction  
with United  
States over  
certain lots in  
the city of  
Wheeling.

3. The United States having, with the consent of the general assembly of Virginia, purchased two lots of ground, numbered seven and eight, in square twelve, situate at the corner east of Market and North John or Sixteenth streets, in the city of Wheeling, and forming a square of one hundred and thirty-two feet, for the erection of a building for

the accommodation of a custom house, post-office, United States courts and steamboat inspectors, it is hereby declared that this state, succeeding to the rights reserved by the state of Virginia in relation thereto, has concurrent jurisdiction with the United States over the said place, so that the courts, magistrates and officers of this state may take such cognizances, execute such process, and discharge such other legal functions within the same as may not be incompatible with the consent so given; and that if the purposes of the grant made by the general assembly of Virginia in relation to said lots should cease or there should be for four years consecutively a failure upon the part of the United States to use said place for any of the purposes aforesaid, then the jurisdiction granted to the United States over the same shall cease and determine. And it is further hereby declared, that the said lots and the buildings erected thereon, and other property of the United States on the said lots, are exempted from all taxes imposed by this state, or by the county of Ohio, or city of Wheeling, so long as the United States shall be the owner thereof.

When jurisdictions over said lots to cease.

Said lots exempted from taxation.

*Consent Given to the Purchase or Condemnation of Lands by the United States.*

4. In pursuance of the seventeenth clause of the eighth section of the first article of the constitution of the United States, the consent of the legislature of West Virginia is hereby given to the purchase or condemnation, whether heretofore or hereafter made or had by the government of the United States, or under its authority, of any tract or parcel of land within the limits of the state, for the purpose of erecting thereon lighthouses, beacons, signal stations, post offices, custom houses, court houses, locks, dams, and works for the improvement of the navigation of any water course, and other needful buildings or structures. The evidences of title to such land shall be recorded as in other cases. But the quantity of land to be so acquired shall not exceed twenty-five acres in any one place.

United States authorized to purchase or condemn land in this State for certain public purposes.

Evidences of title; how received. Quantity of land so acquired limited.

*Right to Execute Process on such Land Reserved.*

5. The state of West Virginia reserves the right to execute process, civil or criminal, within the limits of any lot or parcel of land so acquired by the United States as aforesaid.

State reserves right to execute process on such land.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XXI.

AN ACT to amend and re-enact section eighteen of chapter fifty-eight of the code.

[Passed March 3, 1881.]

Be it enacted by the Legislature of West Virginia :

Code amended.

1. That section eighteen of chapter fifty-eight of the code be amended and re-enacted to read as follows :

Non-resident lunatics.

18. If it appear to the justice that the person examined by him is a lunatic, and a non-resident of the state, he shall be committed to jail; and if any non-resident be received into the hospital under such order, or be committed to jail, the board in one case, and the court to whose jail he may have been committed in the other, shall, as soon as practicable, cause him to be returned to his friends, or to the proper authorities of the state or country from which he came, and the expenses necessarily incurred in effecting such removal, including a compensation to the person, and one guard when necessary, making such removal, of one dollar and fifty cents each per day, each day actually employed in making such removal, shall be paid out of the state treasury on the warrant of the auditor. The governor may take such steps as he may deem proper to obtain from the state of which such lunatic is a resident such expenditures as may be made by the state under this act. But if the justice cannot find out of what state a lunatic is a resident, and shall so certify, the lunatic may be received into the hospital if there be room therein, to be kept until information is received as to his residence.

How disposed of.

Expenses of removal.

How paid.

How State reimbursed for expenditure. When received into hospital.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

Commencement.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XXII.

AN ACT to amend and re-enact sections nineteen and twenty-one of chapter one hundred and forty-five of the code of West Virginia, relating to offenses against property.

[Passed March 5, 1881.]

Be it enacted by the Legislature of West Virginia :

Code amended.

1. That sections nineteen and twenty-one of chapter

one hundred and forty-five of the code of West Virginia be amended and re-enacted so as to read as follows :

19. If any officer, agent, clerk or servant of this state, <sup>Embezzlement by officers, clerks, etc.</sup> or of any county, district, school district or municipal corporation thereof, or of any incorporated bank or other corporation, or any officer of public trust in this state, or any agent, clerk or servant of such officer of public trust, or any agent, clerk or servant of any firm or person, or company or association of persons not incorporated, embezzle or fraudulently convert to his own use, bullion, money, bank notes or other security for money, or any effects or property of another person which shall have come to his possession, or been placed under his care or management, by virtue of his office, place or employment, he shall be guilty of larceny thereof. <sup>Guilty of larceny.</sup>

21. If any officer, clerk or agent of this state, or of any county, district, school district or municipal corporation thereof, or of any bank or incorporated company, or any clerk or agent or firm, or person or association of persons not incorporated, make, alter or omit to make any entry in any book of account of, or in any account kept by such state, county, district, school district, municipal corporation, bank, incorporated company, firm or person, or association of persons, or mutilate, destroy or conceal any such account or book of accounts, with intent in so doing to conceal the true state of any account, or to defraud the state or any county, district, school district, municipal corporation, bank company, firm or person, or with intent to enable or assist any person to obtain money to which he was not entitled, such officer, clerk or agent shall be confined in the penitentiary not less than two nor more than ten years. <sup>Fraudulent entries in accounts by officers and clerks of banks, etc.</sup> <sup>Punishment therefor.</sup>

2. Be it further enacted, that chapter one hundred and fifty-six of the acts of one thousand eight hundred and seventy-two, passed February twenty-eighth, one thousand eight hundred and seventy-two, and all acts inconsistent with this act, be and the same are hereby repealed. <sup>Acts repealed.</sup>

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. <sup>Commencement.</sup>

### CHAPTER XXIII.

AN ACT for the protection of sheep, and imposing a tax on dogs; and to repeal chapter sixty-four of the acts of one thousand eight hundred and seventy-five.

[Passed March 11, 1881].

Be it enacted by the legislature of West Virginia:

1. That it shall be the duty of every assessor, annually,

- Assessors to list dogs.** to list all dogs over four weeks old, owned or kept within his district, particularly noting the number owned or kept about any one house, giving such description of each as he can conveniently obtain, distinguishing between males and females. And for this purpose he may examine, on oath, any person found in his district. The fact that any dog is kept or allowed to remain about any house shall be deemed sufficient evidence to authorize the assessor to return the person inhabiting said house as the owner of such dog. Two copies of such list for each magisterial district shall be returned by the assessor to the clerk of the county court of his county on or before the time fixed for laying the county levy in each year.
- How dogs described and distinguished.**
- What deemed sufficient evidence of ownership.** Lists to whom and when returned.
- County court to levy license tax on dogs.** Amount of tax. Court may discriminate when more than one dog is owned by the same person. By whom tax paid.
- Clerk of county court to extend tax on lists.**
- Lists to be delivered to constable of district.**
- Constable to collect tax.**
- Constable to kill dogs on which tax is not paid; when, etc.**
- Constable to have credit for tax on dog killed, and \$1.00 for killing same.** Commission for collecting.
- Assessor and clerk; how paid.**
- Dog tax; how applied and disposed of.**
2. The county court shall annually levy a license tax on every dog so listed, of fifty cents on males, and one dollar on females. Any court may discriminate as to each owner of more than one dog by increasing the amount of tax on each additional dog. And the tax so levied shall be paid by the persons respectively in whose name the dogs shall be listed.
3. The clerk shall, within one month after such assessment is completed, extend on the lists mentioned in the first section, the amount of such tax chargeable to the persons mentioned therein, one of which lists he shall, as soon as completed, deliver to a constable of the magisterial district for which the list was made. And it shall be the duty of any constable to whom such list is so delivered or tendered, to proceed to collect the taxes mentioned in such lists, from the several persons named therein respectively, and for this purpose every constable shall have the same power to distrain for such taxes, that sheriffs now have in respect to state taxes, and they shall account for and pay over the taxes mentioned in such lists in the same manner that sheriffs are required to account for county levies. The constable having such list shall kill, or cause to be killed, every dog on which the taxes assessed as aforesaid, are not paid on or before the first day of March of the year next after that in which the assessment is made, having first demanded the amount of such tax from the keeper of such dog. For every dog so killed he shall receive credit for the tax charged on the animal killed, and one dollar from the funds collected by him. He shall have the same commissions for collections under this act that sheriffs are allowed for collecting county levies.
4. The county court shall, out of the fund arising under this act, pay a reasonable compensation for the assessment provided for, and to the clerk for his services; and the residue may be appropriated in such manner as the court may deem for the best interests of the citizens of the county, or it may appropriate the same, or such part of it

as may be necessary to remunerate the owners of sheep for losses sustained by dogs. In any county where the county court directs that any part of the funds raised under this act may be appropriated to pay for sheep destroyed by dogs, the fifth and sixth sections of this act shall govern the distribution thereof.

May be applied to remunerate owners of sheep for losses sustained by dogs.

5. Upon complaint, before any justice, of any person, that sheep owned by him and kept within the county, have been destroyed by a dog or dogs, the justice shall issue his warrant appointing three discreet freeholders, residing in the county, whose duty it shall be, having first been duly sworn for that purpose, to proceed forthwith upon actual view, and such information as may be accessible, to ascertain as to the truth of the complaint, the character of the injury, and the amount of the damage, if any, which has been sustained, and make report thereof in writing, to the county court of such county. And in discharging the duties imposed by this section, each of such appraisers is hereby authorized to administer oaths.

Sheep killed by dogs; how value ascertained.

Report to be made to county court.

6. At the end of every year and at such times as the court may direct, every constable chargeable with any money under this act shall report to the court the amount of money in his hands arising from the tax on dogs, and from fines imposed under this act, and for which he is accountable, and pay the same into the county treasury; the county court shall then, or as soon thereafter as practicable, audit the claims reported to the court under this act and allow so much of each claim as to the court seems just and right; and after auditing such claims as shall be paid out of said fund, if it is sufficient to pay the whole thereof, shall give orders thereon to the persons entitled thereto, which shall be promptly paid by the sheriff out of said funds. But if it shall appear that there is not sufficient funds in the hands of the sheriff to pay the amount of claims audited, the court shall give such orders as will divide the fund *pro rata* amongst those entitled, which shall be in full of such claims.

Constable to make settlement at end of each year, and pay fund into county treasury.

County court to audit claims against fund and pay such as may be just.

When not sufficient to pay all claims, to be divided *pro rata*.

7. That appraisers to be appointed under section five shall not certify any appraisement to the court unless it be proved to their satisfaction that the person claiming such damages has made a proper return to the assessor of the dogs owned or kept by him.

Appraisers not to certify any appraisement unless satisfied claimant has made proper return of dogs owned or kept by him.

8. That all dogs on which taxes are paid are hereby declared to be as much the subject of larceny as personal property.

Dogs on which tax is paid declared to be subject of larceny.

9. That if any person shall permit any dog to be kept or remain about his or her premises that is not returned by him or her to the proper assessor for taxation, or on which the taxes levied under this act shall not be paid on

Punalty for keeping dog not returned for assessment, or on which tax is not paid.

or before the first day of March of the year next after an assessment is or should have been made, such person shall be liable to pay a fine of five dollars for each and every dog so kept or permitted to remain, which fine or fines shall be recovered by suit in the name of the state before a justice, as debts of like amount are by law recoverable, to be paid into the county treasury to the credit of the fund above mentioned: *Provided*, That no costs of such proceeding shall be paid out of the county treasury.

Fines; how returned and how disposed of. No costs to be paid out of county treasury.

Does not operate in certain counties, unless adopted by vote of people.

10. But this act shall not take effect or be of force in either of the following named counties, to-wit: Kanawha, Wayne, Boone, Logan, Lincoln, Cabell, Putnam, Mason, Wetzel, Webster, Monongalia, McDowell, Wyoming, Mercer, Gilmer, Braxton, Fayette, Nicholas, Pendleton, Pocahontas, Preston, Hampshire, Mineral, Raleigh, Clay, Upshur, Calhoun, Doddridge and Hardy, until the same be adopted by a vote of the people of such county in the manner provided for in the next section.

How submitted to vote in accepted counties.

11. The county court of any one or more of the counties mentioned in the next preceding section shall, upon the petition of one hundred voters of such county being filed in such court asking a vote to be taken upon the question, order such vote to be taken, at the next succeeding general or school election, to ascertain the sense of the voters of such county upon the adoption of this act therein. The ballots used in taking said votes shall be the same as those used in voting for the officers to be elected at said election, and shall have written or printed on them the words "for dog tax" or "against dog tax," as the voter may choose; which vote shall be taken, certified and returned, and the result thereof ascertained in the same manner as is provided by law in relation to county officers, except that the commissioners of elections at each place of voting in such county, shall make and return to the clerk of the county court a separate certificate of the result of said vote, within five days after the same is taken. The said clerk shall lay said certificate before the county court at its next session thereafter, and said court shall thereupon ascertain and declare the result of said vote in the county and enter the same of record. If a majority of all the votes cast at said election be in favor of imposing a tax on dogs, then this act shall be in force in such county from and after the day on which such result is declared.

Ballots; what required thereon.

Commissioners of election to separate certificate of result.

Certificate of election; how disposed of. County court to ascertain and declare result of election.

Act repealed.

12. Chapter sixty-four of the acts of one thousand eight hundred and seventy-five is hereby repealed.

[Approved March 14, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER XXIV.

AN ACT to amend and re-enact section forty-nine of an act of the legislature of West Virginia, passed February eleventh, one thousand eight hundred and eighty-one, entitled "an act amending and re-enacting chapter thirty-nine of the code of West Virginia."

[Passed March 11, 1881.]

Be it enacted by the legislature of West Virginia:

1. That section forty-nine of an act of the legislature of West Virginia, passed February eleventh, one thousand eight hundred and eighty-one, entitled "an act amending and re-enacting chapter thirty-nine of the code of West Virginia," be amended and re-enacted so as to read as follows:

49. The county court of every county shall allow annually to the county officers hereinafter mentioned, for their public services, for which no other fee or reward is allowed by law, such sums to be paid out of the county treasury as are deemed reasonable by the courts, within the limits ascertained by law, that is to say: The sheriff, not to exceed two hundred dollars, except that the sheriffs of Jackson, Kanawha, Mason, Marion, Monongalia, Ohio and Wood counties shall be allowed a sum not to exceed three hundred dollars. To the clerk of the circuit court not to exceed two hundred dollars, except that the clerk of the circuit court of Ohio county shall be allowed annually not less than five hundred nor more than one thousand dollars, and of Jackson, Kanawha, Marion, Mason, Marshall, Wetzel and Wood counties a sum not to exceed six hundred dollars. To the clerk of the county court a sum not to exceed two hundred dollars, except that the clerks of the county courts of Barbour, Jefferson, Monongalia, Ohio, Preston, Randolph and Wayne counties shall be allowed a sum not to exceed three hundred dollars, and the clerk of the county court of Berkeley county a sum not to exceed the sum of five hundred dollars; to the clerks of the county courts of Marion, Mason, Kanawha, Wetzel and Wood counties, a sum not exceeding the sum of six hundred dollars each; to the prosecuting attorney not less than two hundred nor more than four hundred dollars, except as follows: In the counties of Berkeley, Greenbrier, Harrison, Jefferson, Marion, Preston, Randolph and Wetzel not less than two hundred and fifty nor more than five hundred dollars. In the counties of Kanawha, Mason and Marshall, not less than five hundred nor more than one thousand dollars. In the counties of Ohio and Wood, not less than five hundred nor more than twelve hundred dollars. But no extra

Section amended.

Allowances to certain county officers; when and how paid.

Sheriffs except, etc.

Clerk of circuit court; except, etc.

Clerk of county court; except, etc.

Prosecuting attorney; except, etc.



No extra allowance after service rendered.

Salary not to be increased or diminished, etc.

compensation shall be granted or allowed to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract made, nor shall the salary of any public officer be increased or diminished during his term of office. And it shall be the duty of the prosecuting attorney to attend to and prosecute or defend (as the case may be), all actions, suits and proceedings in which his county, or any district therein, is interested, without additional compensation.

[Approved March 14, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement.

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

CHAPTER XXV.

AN ACT to amend and re-enact section forty-nine of an act of the legislature of West Virginia, passed February eleventh, one thousand eight hundred and eighty-one, entitled "an act amending and re-enacting chapter thirty-nine of the code of West Virginia."

[Passed March 14, 1881.]

Be it enacted by the legislature of West Virginia:

Act amended.

1. That section forty-nine of an act of the legislature of West Virginia, passed February eleventh, one thousand eight hundred and eighty-one, entitled "an act amending and re-enacting chapter thirty-nine of the code of West Virginia," be amended and re-enacted so as to read as follows:

Allowance to certain county officers; when and how made.

How paid.

Allowance to sheriffs, exception.

Allowance to clerks circuit court. Exception.

49. The county court of every county shall allow, annually, to the county officers hereinafter mentioned, for their public services for which no other fee or reward is allowed by law, such sums to be paid out of the county treasury as are deemed reasonable by the court, within the limits ascertained by law, that is to say: the sheriff not to exceed two hundred dollars except that the sheriffs of Jackson, Kanawha, Mason, Marshall, Marion, Monongalia, Ohio and Wood counties shall be allowed a sum not to exceed three hundred dollars. To the clerk of the circuit court not to exceed two hundred dollars, except that the clerk of the circuit court of Ohio county shall be allowed annually, not less than five hundred, nor more than one thousand dollars, and of Jackson, Kanawha, Marion, Mason, Marshall, Wetzel and Wood counties, a sum not to exceed six hundred dollars. To the clerk of

the county court a sum not to exceed two hundred dollars, except that the clerks of the county courts of Barbour, Jefferson, Monongalia, Ohio, Preston, Randolph and Wayne counties, shall be allowed a sum not to exceed three hundred dollars, and to the clerk of the county court of Berkeley county a sum not to exceed the sum of five hundred dollars; to the clerks of the county courts of Marion, Marshall, Mason, Kanawha, Wetzel and Wood counties a sum not exceeding the sum of six hundred dollars each. To the prosecuting attorney not less than two hundred nor more than four hundred dollars, except as follows in the counties of Berkeley, Greenbrier, Harrison, Jefferson, Marion, Preston, Randolph and Wetzel, not less than two hundred and fifty nor more than five hundred dollars; in the counties of Kanawha, Marion and Marshall, not less than five hundred nor more than one thousand dollars; in the counties of Ohio and Wood, not less than five hundred nor more than twelve hundred dollars. But no compensation shall be granted or allowed to any public officer, agent, servant, or contractor, after the services shall have been rendered or the contract made, nor shall the salary of any public officer be increased or diminished during his term of office. And it shall be the duty of the prosecuting attorney to attend to and prosecute, or defend, (as the case may be,) all actions, suits and proceedings in which his county, or any district therein, is interested, without additional compensation.

Allowance to clerks county courts.

Exception.

Allowance to prosecuting attorneys.

Exception.

No extra allowance after service rendered.

Salary not to be increased or diminished, etc. Certain duties required of prosecuting attorneys without additional pay.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement.

## CHAPTER XXVI.

AN ACT to amend and re-enact section four of chapter one of the acts of one thousand eight hundred and eighty-one, entitled "an act fixing the time for holding the circuit courts in the several judicial circuits of this state."

[Passed March 12, 1881.]

Be it enacted by the legislature of West Virginia:

1. That section four of chapter one of the acts of one thousand eight hundred and eighty-one, be amended and re-enacted so as to read as follows:

Act amended.

4. The circuit courts for the several counties of the

Fourth judicial circuit. Fourth judicial circuit shall hereafter commence and be held as follows:

Times of holding circuit courts in. **Wetzel county.** For the county of Wetzel on the third Tuesday in January, the third Tuesday in May, and the third Tuesday in September.

**Ritchie county.** For the county of Ritchie on the third Monday in February, the third Monday in June, and the third Monday in October.

**Doddridge county.** For the county of Doddridge on the third Monday in March, the third Monday in July, and the third Monday in November.

**Tyler county.** For the county of Tyler on the second Monday in April, the second Monday in August, and the second Monday in December.

[Approved March 14, 1831.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement.

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XXVII.

AN ACT to revive and re-enact sections one, ten, eleven and twelve of chapter one hundred and fifty-one of the code and to repeal chapter sixty-eight of the acts of one thousand eight hundred and seventy-five.

[Passed March 14, 1831.]

Be it enacted by the legislature of West Virginia:

Code amended. 1. That sections one, ten, eleven and twelve of chapter one hundred and fifty-one of the code of West Virginia be amended and re-enacted so as to read as follows:

### *Gaming, Lotteries and Lottery Tickets.*

Keeping or exhibiting faro bank, etc., or selling pools, etc.; punishment for, etc.

Table, money, etc., may be seized by order of court, etc. How such money disposed of.

1. A person who shall keep or exhibit a gaming table, commonly called A. B. C., or E. O. table or faro bank, or keno table or table of like kind, under any denomination, whether the game or table be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in the keeping or exhibiting such table or bank, shall be confined in jail not less than two nor more than twelve months, and be fined not less than one hundred nor more than one thousand dollars. Any such table or faro bank, and all money staked, or exhibited to allure persons to bet at such table, may be seized by order of a court, or under the warrant of a justice, and the money so seized after deducting therefrom one-half for the person making

the seizure, shall be forfeited as is provided in the thirty-first section of chapter forty-six, in respect to the forfeiture declared by that chapter, and the table and faro bank burnt.

10. The buying, selling, or transferring of tickets or chances in any lottery shall be and is hereby prohibited.

Buying or selling lottery tickets, etc. prohibited. Setting up or promoting lottery, etc. or any game of chance.

11. If any person shall set up or promote, or be concerned in managing or drawing a lottery or raffle, for money or other thing of value, or knowingly permit such lottery in any house under his control, or knowingly permit money or other property to be raffled for in such house, or to be won therein, by throwing or using dice, or by any other game of chance, or knowingly permit the sale in such house of any chance or ticket in, or share of a ticket in a lottery or any writing, certificate, bill, token or other device purporting or intended to guarantee or assure to any person, or entitle him to a prize, or a share of, or interest in, a prize to be drawn in a lottery, or shall for himself or another person, buy, sell, or transfer, or have in his possession for the purpose of sale, or with intent to exchange, negotiate, or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket in, or a share of a ticket in a lottery, or any such writing, certificate, bill, token or device, he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars.

Punishment therefor.

12. All money and things of value, drawn or proposed to be drawn by an inhabitant of this state, and all money or things of value received by such person by reason of his being the owner or holder of a ticket, or share of a ticket in any lottery, or pretended lottery, contrary to this chapter, shall be forfeited to the state.

Money, etc. drawn or proposed to be drawn, etc. in lottery, forfeited to state for benefit of school fund.

2. Chapter sixty-eight of the acts of one thousand eight hundred and seventy-five is hereby repealed.

Act repealed.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement.

### CHAPTER XXVIII.

AN ACT to amend and re-enact section twenty-three of chapter one hundred and thirty of the code of West Virginia, relating to evidence.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That section twenty-three of chapter one hundred

Code amended.

and thirty of the code of West Virginia be amended and re-enacted so as to read as follows :

Competency of witnesses. Parties in interest and parties to a civil suit, or action, competent.

Exceptions.

23. A party to a civil action, suit or proceeding, may be examined as a witness in his own behalf, or in the behalf of any other party in the same manner, and subject to the same rules of examination as any other witnesses, except as follows :

I. An assignor of a chose in action shall not be examined in favor of his assignee, unless the opposite party be living.

II. A party shall not be examined in his own behalf in respect to any transaction or communication had personally with a deceased person against parties who are the executors, administrators, heirs at law, next of kin, or assignees of such deceased person, when they have acquired title to the cause of action from or through such deceased person, or have been sued as such executors, administrators, heirs-at-law, next of kin, or assignees. But when such executors, administrators, heirs at law, next of kin, or assignees, shall be examined on their own behalf in regard to any conversation or transaction with such deceased person, then the said assignor or party may be examined in regard to same conversation or transaction.

III. If the deposition of a party to the action, suit or proceeding, has been taken, and he shall afterwards die, and after his death such deposition be used upon any trial or hearing, in behalf of his executors, administrators, heirs at law, next of kin, or assignees, the other party, or assignor, shall be a competent witness as to any and all matters to which such deposition relates.

IV. This and the preceding section shall not apply to any action, suit or proceeding commenced prior to the seventh day of February, one thousand eight hundred and sixty-eight, in which a judgment or final decree has been obtained, and a new trial or rehearing has been or shall be awarded therein, but in all such actions, suits or proceedings the rules of evidence shall be the same as if this and the preceding section had not been enacted.

V. A husband shall not be examined for or against his wife, nor a wife for or against her husband, as to any communication made by one of them to the other, whether called to testify while the relation subsists, or after it is dissolved.

VI. A guardian, committee or other fiduciary shall not be examined as a witness against his ward, or the person he represents, as to any transactions in his fiduciary capacity, unless the ward or person affected thereby is in a condition to testify as to the same transaction.

VII. A party to an action, or person interested in the event thereof, shall not testify in his own behalf against a

deaf or dumb person, unless the evidence of such deaf or dumb person has been taken in the case.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed. Commencement.

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## CHAPTER XXIX.

AN ACT to make persons charged with crime competent witnesses in their own behalf.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That in the trial of all indictments, presentments, warrants, and other proceedings against persons charged with the commission of felonies, offenses and misdemeanors, the person so charged shall, at his own request, but not otherwise, be a competent witness. And his failure to make such request shall not create any presumption against him, nor shall any reference be made to, nor any comment be made upon, such neglect or refusal. Persons charged with crime competent witnesses in their own behalf.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed. Commencement.

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## CHAPTER XXX.

AN ACT to extend the time in which county commissioners, and other county and district officers, may qualify; legalizing certain acts of such commissioners, and appointing a time for the first meeting of county courts in counties where no such meeting has been held.

[Passed March 8, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That in counties wherein the commissioners, and Time extend in which county

commissioners  
and other  
county officers  
may qualify.

other county and district officers, elected at the election held on the twelfth day of October, one thousand eight hundred and eighty, have taken the oath of office, but not within the time prescribed by law, such oath is hereby made valid and sufficient.

Time appointed  
for first meeting  
of county  
courts, when no  
such meeting  
has been held.

Certain acts of  
county court  
legalized.

2. The first meeting of the county courts for purposes of organization shall be held on the first Monday in April, one thousand eight hundred and eighty-one, in counties in which such organization shall not theretofore have been made. And in counties in which such organizations have taken place, the said organizations, and all acts done by said courts, not inconsistent with or repugnant to the constitution or general laws, are hereby legalized and made valid.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XXXI.

AN ACT to amend and re-enact section one of chapter forty-seven of the acts of one thousand eight hundred and seventy-two and three.

[Passed February 3, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That section one of chapter forty-seven of the acts of one thousand eight hundred and seventy-two and three, be and the same is hereby amended and re-enacted, so as to read as follows :

Persons liable to  
serve as jurors.

1. All male persons who are twenty-one years of age and not over sixty, and who are citizens of this state, shall be liable to serve as jurors, except as hereinafter provided.

[Approved February 5, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by vote taken by yeas and nays, having so directed.

CHAPTER XXXII.

AN ACT to amend and re-enact sections five and six of chapter one hundred and eight of the Acts of one thousand eight hundred and seventy-seven.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That the fifth and sixth sections of chapter one hundred and eight of the acts of eighteen hundred and seventy-seven, approved February twenty-seven, one thousand eight hundred and seventy-seven, entitled, "an act amending and re-enacting chapter thirty-three of the code of West Virginia," be amended and re-enacted so as to read as follows:

Acts of 1877 amended.

5. The state tax on every license for theatrical performances in a city with a population of twenty thousand or more, shall be twenty dollars; in a city or town with a population of more than ten thousand, but less than twenty thousand, ten dollars; and in a city or town with a population less than ten thousand, five dollars for each week; and no such license shall be issued for any fraction of a week; *Provided*, That a theater, opera house or other permanent public show, shall have license to exhibit for three months for fifty dollars, or six months for seventy-five dollars, or one year for one hundred dollars; *Provided*, That the provisions of this section shall not apply to literary, dramatic or benevolent societies, where they do not give exhibitions outside of their county.

License tax for theatrical performances.

Proviso, as to theatre, etc. and other public shows.

Proviso, as to literary associations, etc.

6. The state tax on every license to exhibit a circus shall be forty dollars for each exhibition; on a license to exhibit a menagerie, twenty dollars for each exhibition; and on a license to exhibit any other public show, five dollars for each exhibition.

Tax on license to exhibit circus; menagerie, etc.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement.



## CHAPTER XXXIII.

AN ACT to amend and re-enact section seven and to repeal section nine of chapter one hundred and eight of the acts of one thousand eight hundred and seventy-seven.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

Section 7, amended, and section 9, repealed, acts 1877.

1. That section seven of chapter one hundred and eight of the acts of one thousand eight hundred and seventy-seven, be and the same is hereby amended and re-enacted so as to read as follows:

Tax on seal of state.

7. There shall be a state tax of one dollar whenever the seal of the state is affixed to any paper.

Section 9, acts 1877, relating to tax on deeds, etc. repealed.

2. That section nine of chapter one hundred and eight of the acts of one thousand eight hundred and seventy-seven be and the same is hereby repealed.

Inconsistent acts repealed.

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

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement.

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER XXXIV.

AN ACT to amend and re-enact chapter one hundred and twenty-nine of the code, in relation to the appointment of commissioners and proceedings on accounts referred to them, and to repeal chapter one hundred and thirty-eight of the acts of one thousand eight hundred and seventy-two and three, and chapter ninety-six of the acts of one thousand eight hundred and seventy-seven.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That chapter one hundred and twenty-nine of the code of West Virginia is hereby amended and re-enacted so as to read as follows:

CHAPTER CXXIX.

APPOINTMENT OF COMMISSIONERS AND PROCEEDINGS ON ACCOUNTS REFERRED TO THEM.

1. Each circuit court, and every court of limited jurisdiction now existing, or which may hereafter be established for any incorporated town or city, shall, from time to time, appoint commissioners for executing its orders and decrees and for settling accounts of fiduciaries, with power to take depositions, and to swear and examine witnesses, and certify their testimony. Each county court, and the clerk of the county court in all counties within which there exists a separate tribunal for police and fiscal purposes, created under article eight, section thirty-four, of the constitution of one thousand eight hundred and seventy-two, shall, from time to time, appoint commissioners for settling accounts of fiduciaries, with power to take depositions and to swear and examine witnesses and certify their testimony.

Courts to appoint commissioners.

Power of commissioners to settle accounts of fiduciaries, etc.; how appointed.

2. Every such commissioner, before proceeding to act, shall take an oath to faithfully and impartially discharge his duties.

Oath prescribed.

3. Not more than four commissioners shall be appointed by any court hereinbefore named, and not more than one commissioner shall be appointed by the clerk mentioned in the first section, but authority to appoint four commissioners by each court, and to appoint one commissioner by every such clerk, and to fill any vacancy that may occur, is hereby given.

Number of commissioners to be appointed.

One commissioner to be appointed by clerk etc

4. Every order of reference, heretofore or hereafter made by any court, may be proceeded with and finally reported upon by the commissioner appointed in the premises, and such report may be recommitted to the said commissioner, or any other, for other and final report.

Order of reference heretofore made; how proceeded in.

Report may be recommitted.

5. Accounts to be taken in any case shall be referred to a commissioner so appointed, unless the parties interested agree that they be referred to some other person. Every commissioner shall examine and report upon such accounts and matters as may be referred to him by any court.

Accounts to be taken must be referred to commissioners, unless parties agree otherwise. Commissioners duty.

6. The court, ordering an account to be taken, may direct that notice of the time and place of taking it may be published, once a week for four successive weeks, in some convenient newspaper, and that such publication shall be equivalent to personal service of such notice on the parties, or any of them.

Notice; how given, etc.

7. Any judge of a circuit court, or of a court of limited jurisdiction for any incorporated town or city, may in vacation, on motion of any person interested, make an

Judge may in vacation order account to be taken.

order in any cause pending in his court at any time after process has been duly served on the defendant, or such of them as may appear to be interested in the subject matter upon which the commissioner is to report, or at any time after such defendants have entered their appearance in such cause, referring the same to a commissioner for the purposes of stating any proper account, or reporting upon any matter on which it is proper there should be a commissioner's report in said cause. But no such order of reference shall be made in any cause until reasonable notice, in writing, has been served upon the opposite party, or his attorney, of the time and place of making such motion.

Notice in writing to be served upon the opposite party.

Commissioner may submit writing to court or judge for instruction.

8. A commissioner who doubts as to any point which arises before him, in taking an account to be returned to any court, may in writing submit the point to such court, or the judge thereof, who may instruct him thereon.

Commissioner may adjourn proceedings from day to day, etc.

9. A commissioner may adjourn his proceedings from time to time, after the day to which notice was given (without any new notice), until his report is completed; and when it is completed, unless it is otherwise ordered by the court, or agreed by the parties, he shall retain it ten days for their examination. Any party, without being at the expense of taking a copy, may inspect the report and file exceptions thereto; and the commissioner shall, with his report, return the exceptions, and such remarks thereon as he may deem pertinent, and the evidence relating thereto. But any party may except to such report at the first term of the court to which it is returned, or by leave of court after said term.

When report to be retained in his office for ten days, etc.

Exceptions thereto.

When excepted to.

What must be returned with report. How report made out.

10. With his report the commissioner shall return the decrees, orders and notices under which he acted. He shall not copy in his account or report any paper; and if there has been a previous account, he shall not copy it into his report, but, taking it as the basis of his, correct the errors and supply the defects thereof by an additional statement. Everything improperly copied into a commissioner's account shall be expunged at his costs, on the application of either party; and if on account of his negligence or misconduct a report be recommitted, he shall bear the costs occasioned thereby.

When commissioners to pay costs, etc.

Cause may be read on report at any time after return of report.

11. A cause may be heard on a commissioner's report at any time after it is returned, whether such return was made before or after the commencement of the term of court at which such hearing is desired to be had. But the court may, in its discretion, require the party desiring a hearing to give reasonable notice to the opposite party or his attorney.

Act repealed.

2. Chapter one hundred and thirty-eight of the acts of one thousand eight hundred and seventy-two and three,

and chapter ninety-six of the acts of one thousand eight hundred and seventy-seven, are hereby repealed.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety Commencement days after its passage.

CHAPTER XXXV.

AN ACT providing a method for constructing and keeping in repair county roads.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

1. The voters of any county in this state may, as hereinafter provided, adopt the method of constructing and keeping in repair the county roads of said county provided in this act. Voters of any county may adopt road law.

2. The county court upon petition having been presented to it, signed by at least one hundred voters of said county, shall, at the next ensuing session thereof, order that the said method of constructing and keeping in repair the county roads of said county, shall be submitted to the voters of the county for ratification or rejection, at the next ensuing election held throughout the county. When and how question submitted to voters of county.

3. The voting upon said question shall be by ballot, and those voting for said road system shall have written or printed on their ballots "For the new road law," and those voting against said road system shall have written or printed on their ballots "Against the new road law," but no ballot shall be rejected, in ascertaining the result of said election at any place of voting, because all of said words are not written or printed thereon, if it sufficiently appear what the voter intended. The said election at each place of voting shall be conducted and returned, and the result thereof ascertained by the officers conducting the election provided to be held on said day. Voting to be by ballot. What written or printed on ballots. No ballot to be rejected for informality. Elections, how held and returned and the result ascertained.

4. When the result of said election at every place of voting is ascertained as aforesaid, the commissioners and conductor, or any two of them, shall sign a certificate of the result thereof, to the following effect: "We, the undersigned, who acted as commissioners (or commissioners and conductor as the case may be) of the election held at \_\_\_\_\_, in the district of \_\_\_\_\_, in the county of \_\_\_\_\_, on the \_\_\_\_\_, 1881, certify that the result of the election was as follows: \_\_\_\_\_." Certificate of result to be signed by commissioners. Form of certificate.

- day of —, in the year —, upon the adoption or rejection of the 'new road law,' do certify that the result of said election is as follows: For adoption, — votes; for rejection, — votes. Given under our hands this — day of —, in the year —." The said certificates shall contain a full and true return of said election at each place of voting on said question. The said commissioners, or one of them, or said conductor, shall, within four days, including Sundays, after that on which said election was held, deliver the said certificate to the clerk of the county court of the county, who shall deliver the same to the county court, whose duty it shall be to ascertain therefrom the result of said election in the county, and declare the same at their next session.
- What certificate to contain.** Certificate to be delivered to clerk of county court.
- How result declared.** Duty of county court.
- Each district to be divided into three road precincts. Appointment of road surveyors.** 5. The county court of the county shall, if the method of constructing and keeping in repair the county roads herein provided for is adopted, by a majority of the votes cast upon the question at said election, proceed to divide each district in the county into three road precincts, of, as nearly as practicable, equal extent, numbering the same, and shall also appoint, in each district of the county, three road surveyors, no two of whom shall be appointed from the same road precinct. One of said surveyors shall be appointed for the term of three years, one for the term of two years, and one for the term of one year.
- Their term of office.** 6. The term of office of said board of surveyors shall commence on the first day of January next after their appointment.
- When to commence.** 7. After the first appointment, one surveyor shall be annually appointed in each district of the county, residing in the road precinct of his immediate predecessor, and who shall be a voter of his district. The term of office of the surveyor so appointed shall commence on the first day of January next after his appointment, and he shall continue in office for three years.
- One surveyor to be appointed annually. Shall reside in his road precinct and be a voter.** 8. When there is a vacancy in the office of road surveyor, the same shall be filled for the unexpired term by the county court at their next session.
- Vacancy in the office of surveyors; how filled.** 9. It shall be the duty of the clerk of the county court to give written notice to the appointee of his appointment, as soon thereafter as practicable, and each person so appointed shall, within ten days after having been notified of such appointment, qualify by taking the oath prescribed by the fifth section of the fourth article of the constitution of this state, a copy of which oath, signed by the road surveyor taking the same, shall be filed in the office of the clerk of the county court.
- Duty of clerk of county court.** Surveyor to qualify by taking oath of office.
- Where oath filed.** 10. Any two of said surveyors shall constitute a quorum for the transaction of business, and they shall not
- What to constitute a quorum**

transact any business except when sitting as a board, except as herein otherwise provided.

of board of surveyors.

11. Stated meetings of said road surveyors shall be held at the place of voting in their district on the second Tuesday in April and September of every year, and special meetings at such other times as a majority of the surveyors may determine.

Stated meetings; when and where held.

Special meetings.

12. It shall be the duty of the surveyors, within twenty days after the first day of January next after the adoption of this act, and every three years thereafter, to lay out and divide, or cause to be laid out and divided, all of the county roads in their respective road precincts into sections not exceeding one mile in length, which they shall number and describe in a book to be kept for that purpose by the board of surveyors of each district. They shall also distinctly specify therein what they may deem necessary for the improvement and keeping in repair each section of said county road for a period not exceeding three years.

Surveyors to divide roads into sections.

Sections not to exceed one mile in length. To be numbered and described.

What to be specified as to said sections.

13. It shall be the duty of the said road surveyors to expose for sale, one section at a time, such of the sections of road in their districts as they may elect to the lowest and best bidder, commencing on the first Tuesday in April next after the adoption of this act, for the period of time previously determined as provided in section twelve. Additional sections may be sold in like manner annually thereafter, the sales to continue from day to day until the designated sections are all sold, of which sales at least ten days' notice shall be given by not less than ten hand bills posted at the most public places in the district. *Provided*, That any person purchasing a contract, or contracts, at any sale herein provided for, shall give bond, with freehold security to be approved by said surveyors in a sum to be fixed by said surveyors for the performance of every contract so purchased.

When construction and repair of roads by sections sold out.

Notice to be given.

Purchaser of contract to give bond.

14. The road surveyors shall divide all the roads that may hereafter be laid out, altered or established in their respective precincts into sections not exceeding one mile in length, number and describe them; specify the nature and character of the work to be done within twenty days after the time they may receive an order for opening the same, and after giving notice for ten days at ten of the most public places in the district, by posting hand bills, shall proceed to sell the same at public sale in the manner and form provided in the thirteenth section, for such length of time as they may deem necessary for the opening of the same, after which they shall be kept in repair in the same manner as other roads in the district.

Roads hereafter altered or established to be divided into sections.

When to be sold.

Notice required.

How sold.

How kept in repair.

15. It shall be the duty of the purchaser or purchasers to sign his or their name, or names, as the case may be,

Purchasers of contract to sign their names,

etc., in books of road surveyors.

Contractors failing to keep their sections in repair.

Duty of surveyors in relation thereto.

Costs of repairs recoverable from contractors.

Surveyor, who may be contractor, failing to keep road in repair; how proceeded against.

Costs of repairs, how recoverable

Annual report of surveyors to county court.

What report to contain.

and write the sum he or they are to receive for repairing his or their section or sections, in the books kept by said road surveyors, mentioned in section twelve of this act, under the description thereof; and any contractor, or contractors, neglecting or refusing to keep his or their section or sections in repair, in conformity thereto, upon complaint of any citizen of the district in which such road is made, to the road surveyors thereof, it shall be their duty to examine thereinto within four days after such complaint; and if upon such examination they deem the complaint well founded, they shall give notice thereof in writing to the party or parties so complained of, accompanying said notice with a request that the party or parties, so complained of, shall put in good repair, within six days thereafter, his or their portion of road so out of repair, and if he or they shall still neglect or refuse to repair the same, it shall be the duty of the said road surveyors to cause the same to be put in good repair, and the costs of said repairs shall be recoverable by said road surveyors before a justice of the peace of the said district, or the circuit court of the county, if such costs exceed the sum of three hundred dollars, as other debts or claims of equal amount are now recoverable by law; *Provided*, That if any road surveyor shall become a purchaser or contractor, as aforesaid, and shall neglect or refuse to keep in repair, according to his contract, any portion of his section or sections so purchased, it shall be the duty of the surveyors in the district not interested in such contract, upon complaint of any citizen of the district made to them, to examine the section or sections so complained of within four days from the time of such complaint being made, and if such complaint is deemed well founded, they shall give notice in writing to the person or persons complained of, accompanying the same with a request that he or they so notified, put his or their section or sections so complained of in good repair, according to his or their contract, within six days thereafter; and if such neglect or refusal to repair the same shall continue for any period of time after said six days, it shall then be the duty of such surveyors, not interested in such contract, to cause the same to be put in good order at the cost of said person or persons complained of in manner and form herein provided for other delinquencies.

16. It shall be the duty of the board of road surveyors of each district in the county, as soon as practicable after the sale of said county roads, or of any newly established or altered roads, and annually thereafter, to ascertain and report in writing immediately after such ascertainment, to the county court of the county, the amount of money necessary to open and keep in repair the county roads of their district, payable during the next ensuing fiscal year; whereupon the said county court at their first stated meet-

ing thereafter, at which the said county court may be required to levy the estimates covering the county debts and liabilities, shall provide for the amount so reported to them by the road surveyors as aforesaid, and any other expenses pertaining to the same, by levying a tax of one dollar on every male inhabitant of said district, who has attained the age of twenty-one years, and the balance, after deducting said capitation tax and estimated delinquencies, shall be levied upon the property of said district, taxable for state and county purposes, and shall be collected and disbursed in the same manner.

How and when amount to keep roads in repair provided for.

Capitation tax to be levied.

Tax on property. How levied and collected.

17. Every road surveyor provided for in this act shall, before entering upon the duties of his office, give bond, with security, to be approved by the county court of the county, in such sum as may be required by the county court, the same to be made payable to the county court of the county, and be conditioned as any other fiduciary public officer's bond.

Surveyors of roads to give bond with security; how approved.

Bond; to whom payable.

18. It shall be lawful for any contractor or contractors who may remove out of any district, to yield up to the road surveyors of such district the unexpired portion of his or their contract or contracts, by giving notice thereof, in writing, at least twenty days before the time for making the annual sales of sections of road provided for in section thirteen; and the sections of road so yielded up, and any section of new road that may have been opened, may be sold at private sale by the road surveyors, for the time intervening till the next annual sale of roads provided for in section thirteen; *Provided*, That in case of death or removal out of the district, the road surveyors shall cause to be paid, in the same manner as other claims are required to be paid to contractors, to the representative of such person so deceased, or to such person so removing out of the district, such portions of the money specified in their respective contracts, as they shall believe them justly entitled to.

Contractor moving out of precinct may yield up contract. Notice to be given.

How unexpired term disposed of.

Death or removal of contractor out of precinct.

How money due on contract to be paid

19. The road surveyors shall have the right to reject any bid that may by them be deemed too high and sell such section or sections or new roads at private sale.

Surveyors may reject bid too high, and sell such section at private sale.

20. Delinquent lists of taxes, uncollected under the provisions of this act, shall be returned and disposed of relatively to this act, as district levies for road purposes are disposed of under the general road law of the state. And any balance of road fund remaining in the hands of the sheriff at the end of a fiscal year, shall remain to the credit of the district in which it was collected.

Delinquent lists of taxes.

Where returned and how disposed of.

21. The road surveyors shall each keep a regular account of the amount and kind of services performed by them severally with the date thereof, and render an account thereof sworn to, to the county court of the county,

Account to be kept by surveyors and rendered to county court.



**How audited and paid.** who shall audit, and if by them found correct and proper, order payment of the same, or such part thereof as may be deemed proper, out of the funds for road purposes of the district of such road surveyor; *Provided*, That no road surveyor shall receive for his services as such more than one dollar and twenty-five cents per day.

**Compensation of surveyors.**

**Claims of contractors.**

22. All claims of any contractor or contractors, or others, which may, under the provisions of this act be due to such contractor or contractors, or other persons, shall, when certified to by the board of road surveyors, be presented to the county court at the proper session thereof, and if by them found correct, shall, upon the order or warrant of said court, signed by the president and clerk of the county court, be paid by the sheriff.

**How certified and paid**

**Penalties on surveyors who have qualified, for neglecting or refusing to discharge duties of his office.**

23. Any road surveyor duly appointed as provided in this act, and who may have qualified as such, neglecting or refusing to perform the duties of his office, shall be subject to all the fines and penalties provided by the general road law in similar cases.

**County court may cause roads of greatest benefit to be laid off in sections of two miles, and contract for keeping same in repair. To be sold to lowest bidder.**

24. The county court of the county may, with the consent of a majority of the boards of road surveyors, cause such of the county roads as are of greatest benefit to the citizens of the county, to be divided and laid out in sections of not more than two miles in length, the contract for repairing and keeping in order of which they may sell out to the lowest and best bidder, who shall give bond and security in such amount as the county court may determine, to be approved by the county court, and the expense of constructing and keeping in repair any road, so laid out and divided, shall be provided for by a tax levied upon all the property of the county taxable for state and county purposes.

**Expense of keeping in repair to be levied upon the county generally.**

**Notice to be given.**

25. It shall be the duty of the county court, before making sale of any roads as provided for in section twenty-four, to give notice of such sale for at least thirty days in some newspaper published in the county, or by posting hand bills in at least two of the most public places in each district of the county.

**Conflicting laws to be void in any county in which this act is adopted.**

26. Upon the adoption of the provisions of this act, as provided herein, all laws or parts of laws in conflict with this act shall be as to said county void and of no effect.

**How operations of this act discontinued.**

27. Any county having adopted the provisions of this act, and wishing thereafter to discontinue the same, may do so in the same manner as is provided in section two of this act for the adoption or rejection of said act; and if it shall determine at said election to discontinue the same, the general road law in force at that time shall be in force in that county.

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES ]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER XXXVI.

AN ACT to amend and re-enact sections three, four, five, eight, eleven, thirteen, fourteen, fifteen, sixteen, seventeen, nineteen, twenty-one and twenty-three of chapter one hundred and eighty-two of the acts of one thousand eight hundred and seventy-two and three, entitled " An act providing an alternate method of keeping in repair county roads."

[Passed March 14, 1881.]

Be it enacted by the legislature of West Virginia :

1. That sections three, four, five, eight, eleven, thirteen, fourteen, fifteen, sixteen, seventeen, nineteen, twenty-one and twenty-three of chapter one hundred and eighty-two of the acts of one thousand eight hundred and seventy-two and three be amended and re-enacted so as to read as follows :

Acts 1872 3 amended.

3. Each magisterial district shall constitute a road precinct, and when a county shall have adopted the provisions of this act the county court thereof may appoint a county engineer, who shall be a person competent to survey, grade, curve and make notes and specifications in a book to be kept by him for that purpose, and the county court shall, at its first session, after the adoption of this act, appoint one surveyor of roads for each road precinct in such county, whose term of office shall commence on the first day of January next succeeding his appointment and expire in two years thereafter. The term of office of the county engineer shall be for such term, not exceeding two years, as the county court may order. Vacancies in the office of engineer or surveyor of roads shall be filled by appointment by the county court for the unexpired term.

What to constitute a road precinct. Court to appoint a county engineer; his qualifications.

Also, to appoint road surveyor; when. His term of office. When to expire. Term of office of county surveyor.

Vacancies in office of engineer and surveyor; how filled.

4. Each person so appointed shall, within thirty days after his appointment, qualify by taking the oath prescribed by the fifth section of the fourth article of the constitution of this state, and shall before entering upon the discharge of the duties of his office give a bond, with security, to be approved by the clerk of the county court,

When engineer and surveyor to qualify.

Bond; amount and approval.

Condition of such bond. How recorded.	in such sum as may be required by the county court, and shall be conditioned for the faithful performance of the duties of his office, and such bond shall be recorded as provided in section nineteen of chapter ten of the code.
Duty of surveyor or as to laying out and dividing roads into precincts.	5. It shall be the duty of each surveyor of roads, within seventy-five days from the first day of January next succeeding his appointment (provided he was not appointed to fill a vacancy), to lay out and divide the county roads in his district into sections not exceeding two miles in length, as hereinafter directed by the county court, which sections he shall number and describe in a book to be kept by him for that purpose, and he shall specify therein the nature and extent of the work he may deem necessary for improving and keeping in repair each section of said road for the term of two years; and for such purpose he may have the assistance of the county engineer by making application therefor to the county court.
Length of sections.	
To be numbered and described.	
To specify nature and extent of road, etc.	
To have assistance of county engineer.	
Roads hereafter laid out, altered, etc.; duty of surveyor in relation to.	8. Each surveyor of roads shall divide all the county roads which may be laid out, altered or established hereafter in his precinct, into sections not exceeding two miles in length, number and describe them, specify the nature and extent of the work to be done, and within twenty days after he has received an order for opening said roads, and after he shall have given fifteen days' notice by having posted ten hand bills, at as many public places in his precinct, said surveyor of roads, shall proceed to sell said county roads, at public sales in the manner provided by section six of this act, after which said roads shall be kept in repair in the same manner as other county roads in the precinct. But no contract shall be valid until it shall be approved and confirmed by the county court, as provided in section thirteen of this act.
Sale of such roads; when and how.	
How such roads to be kept in repair.	
Contract to be approved by county court.	
Engineer and surveyor not to purchase or contract for making or repairing roads. Nor interested in any way. Any violation deemed a misdemeanor.	11. The county engineer and district surveyor shall not be purchasers or contractors for constructing or keeping in repair county roads, and shall be in no way interested therein, either directly or indirectly, in any such contract, as parties thereto, and any violation of this section shall be a misdemeanor, and be sufficient cause for dismissing such engineer or surveyor from office.
Annual report of surveyor to county court; when.	13. It shall be the duty of each surveyor of roads, as soon as practicable after the sale of said county roads, or of any road newly established, or changed, and annually thereafter, to ascertain and report in writing as soon as ascertained, to the county court, the amount of money necessary to construct and keep in repair the county roads in his precinct for the term of one year; and he shall accompany said report with the contract entered into with each contractor under the provisions of this act, and no such contract shall take effect or be valid until it shall be
What report to contain. Contract of contractor to accompany such report.	
Contract to be valid, etc., must	

approved and confirmed by the said court, which approval and confirmation shall be endorsed on each contract by the clerk of the said court, and an entry thereof be made in the proper record book of the county. The county court, if it disapprove for any reason, any contract made or entered into by any road surveyor, may order a resale of the sections or road therein named, or take such other action as they may deem proper in reference thereto. The county court, at its first levy term thereafter, shall provide for the amount necessary to open, construct and keep in repair the county roads in said precinct, and any other expenses pertaining to the same, by levying a tax of one dollar on every male inhabitant of said precinct who has attained the age of twenty-one years; and the balance necessary to open and keep in repair the county roads in said precinct, after having deducted said capitation tax and having added the estimated delinquencies and cost of collection, shall be levied on the property of said precinct taxable for state and county purposes: *Provided*, That such levy shall not exceed five mills on each dollar of the valuation of such property. A list of persons liable under said assessment, together with the amount with which each person is chargeable, shall be delivered to the sheriff of the county, and he shall collect the same in like manner as he collects other district taxes.

be confirmed by court; how.

Entry of such Approval.

If court disapprove contract, may order resale of road, etc.

Levy of tax, by court, to keep in repair, etc., roads; when and how.

Amount of such levy limited.

How collected.

14. If any contractor or contractors, who may move out of the precinct, desire to yield up to the surveyor of roads the unexpired portion of his or their contract, or contracts, he or they shall give the said surveyor at least thirty days' notice, in writing, of such intention, and the surveyor shall as soon as possible thereafter proceed to sell such unexpired term or terms as directed in section six of this act; any loss occasioned by the yielding up of any contract, or contracts, shall be borne by the person or persons so yielding them.

If contractor move out of precinct, may yield up contract. Notice in such cases.

How unexpired term disposed of.

Any loss occasioned; by whom borne.

15. In case of the death of the contractor, the surveyor of roads shall cause to be paid to the representative of such contractor, as other claims are required to be paid to contractors, such portion of the money specified in his contract, as the surveyor of roads and the county engineer shall believe him entitled to; and the securities of such person in the bond mentioned in the seventh section, may finish the work contracted for by their principals, in which event their liability as such securities shall terminate.

In case of death of contractor; how paid.

Securities may finish work contracted for; then their liabilities terminate.

16. The surveyor of roads shall have the right to reject any bids which he may deem too high, and sell such sections, or sections, or new road, at private sale.

Surveyor may reject bids too high, and sell at private sale.

17. The county court shall furnish the county engineer and each district surveyor of roads with all the necessary books, stationery and printed forms, for the records and

Court to furnish surveyor and engineer with books, forms, etc.

Accounts to be kept; what to contain.

Statements to be made to court. Court to audit and pay.

Compensation of surveyor and engineer; how paid.

Moneys allowed contractors, etc.; how paid.

Surveyor may change road; when.

May put road on better ground, etc.

When old road discontinued, and to what extent. Proceedings when persons desire to establish, etc., public road, bridge, etc., or private road. Report of surveyor to court.

Report of viewers; what to contain.

Viewers may examine any other route.

uses of their respective offices. Every surveyor of roads and county engineer shall keep an itemized account of the time necessarily spent and of the expenses necessarily incurred by him, with the date of each item, and render a sworn statement thereof to the county court, and said court shall audit, and if found correct, order the payment of such expenses, or such part thereof as it deems proper, and shall allow a reasonable *per diem* for such time. The allowance made to surveyors shall be paid out of the road fund of their respective precincts, and the amount allowed to the county engineer shall be apportioned out of the road fund of the several districts of the county or such of them as the county court shall order.

19. All moneys which may be allowed contractors or other persons under the provisions of this act shall be paid by the sheriff of the county upon the order of the county court signed by the president and clerk thereof.

21. The surveyor may change any county road in his precincts, with the consent of the owner of the land in which such change is proposed to be made, provided such change of location does not make a greater grade than five degrees; and may put the road on better ground for road bed; and when any road location is altered, the former road shall be discontinued to the extent of such alteration, and no further, and the new road established after it is built. When any person desires the establishment or alteration of a public road, bridge or landing, or a private road for his own convenience, he shall notify the surveyor of his precinct, in writing, to go upon and examine the proposed location, or alteration, and if the surveyor thinks the application for a survey of said proposed road necessary, he shall so report to the county court, with the name of the applicant, and any other persons who may desire such establishment or alteration, and thereupon, the county court shall appoint three freeholders viewers, and they, with the surveyor, or any two of them, with the surveyor, may act, and may view the ground and locate the proposed road, on a grade not exceeding five degrees, and report the advantages and disadvantages which, in their opinion, will result, as well to individuals as to the public, from the proposed work, and all facts and circumstances that may be useful to enable the court to determine whether such work ought to be undertaken by the county, stating specially, in either case whether it will be necessary to take any part of any improved farm, yard, garden, orchard, or building, or other improvements, the cost of the proposed work and the damage to owners of real estate injured by the establishment of said road. The viewers may examine any other routes or locations than that proposed, and report in favor of the one they prefer, with their reasons for preferring

it. The court at its discretion, may require the county engineer to go upon and locate any road in the county, and he shall make a map of said location and return it with his report, with any other information pertinent to said location, and the probable cost of the proposed work. The report may be recommitted by the court with or without special instructions to the same or other viewers, with the surveyor and engineer, or without the engineer, as the court may elect. It shall be the duty of each surveyor of roads, as soon as practicable after his appointment, to make examination of all the roads in his precinct, and ascertain any change in location made by parties living along said roads, or by the former surveyor, or by any other persons, without authority of law; and when such change has been to the injury of the roads, he shall notify the owners (if they be found in the county) of the lands where such change has been made, and request them to allow the road to be placed back on the lawful location thereof, and should such owner or owners refuse to allow the said road to be placed back on its proper location, then the surveyor shall proceed against him or them, as the law directs in such cases, to force compliance therewith. The county court shall have the power at any time to order the surveyor of roads or the county engineer, or both, to go upon any road to relocate, alter or change the same, or to locate a route for a new road, and the said surveyor or engineer, as the case may be, or both, shall make report of their proceedings to said court, and the court may order the construction of the same, or the performance of such work as may be necessary, if in its judgment the same would be of great public benefit: *Provided, however,* There be money sufficient in the road fund of the precinct where the work is to be done.

Court may require any engineer to locate any road.  
Duty of engineer in relation thereto.  
His report, and what to contain.  
Report of viewers may be re-committed, etc.  
Duty of surveyor of roads immediately after his appointment.

Court may order engineer or surveyor to relocate, alter, etc., road; or locate new road.  
Report in such cases.  
Duty of court thereon.

Proviso.

23. If any surveyor of roads neglects or refuses to perform the duties of his office, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars; and he shall be subject to the same penalty, if he refuse or neglect to cause contractors to perform their duties, as provided in section ten. Upon the adoption of this act by any county, all laws and parts of laws in conflict with this act shall be as to such county void and of no effect.

Penalty on surveyor, or neglect or refusal to perform his duties.  
If county adopt this act, all conflicting laws to be void.

[Approved March 17, 1831.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement.

## CHAPTER XXXVII.

AN ACT to amend and re-enact section two of chapter one hundred and eighty-two of the acts of one thousand eight hundred and seventy-two and three, concerning the adoption of the alternative method of constructing and keeping in repair county roads.

[Passed February 17, 1881.]

Be it enacted by the legislature of West Virginia :

Acts 1872-3,  
amended.

1 That section two of chapter one hundred and eighty-two of the acts of one thousand eight hundred and seventy-two and three be amended and re-enacted so as to read as follows :

When and how  
question of al-  
ternative meth-  
od of keeping in  
repair, etc.,  
county roads  
submitted.

2. The county court, upon petition having been presented to it, signed by at least one hundred voters of the county, shall, at the next ensuing term thereof, order that the said alternative method of constructing and keeping in repair the county roads shall be submitted to the voters of the county for adoption or rejection at the next ensuing election for delegate to the legislature, and a majority of the votes cast at said election shall determine the question ; or the county court, upon petition having been presented, signed by a *majority* of the voters of the county, to be estimated by allowing one vote for every six persons in such county as shown by the last preceding census, shall order that the said alternative method of constructing and keeping in repair the county roads shall be adopted by the county.

Majority vote  
determines  
question.

When court  
may order al-  
ternative meth-  
od to be adopted  
without sub-  
mitting ques-  
tion.

[Approved February 21, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER XXXVIII.

AN ACT amending and re-enacting section two of chapter thirty-four of the code of West Virginia, as amended and re-enacted by chapter two hundred and twenty-one of the acts of one thousand eight hundred and seventy-two and three.

[Passed March 14, 1881.]

Be it enacted by the legislature of West Virginia :

Code and acts of  
1872-3 amended.

1. That section two of chapter thirty-four of the code of West Virginia, as amended and re-enacted by chapter two

hundred and twenty-one of the acts of one thousand eight hundred and seventy-two and three, is hereby amended and re-enacted so as to read as follows :

2. It shall not be lawful for any officer or agent of any fire or marine insurance company, directly or indirectly, to take risks, or issue policies of insurance within this state, without first procuring from the auditor a certificate as hereinafter directed. Before obtaining such certificate, such company, its officers, or agents, shall furnish the auditor with a statement under oath, of the president or secretary of the company, for which he or they may act, which statement shall show :

Unlawful for agents, etc., of fire, etc., insurance companies to take risks, etc., without certificate from auditor. Statement to be furnished auditor by company

*First*—The name and locality of the company;

What such statement to show.

*Second*—The amount of its capital stock;

*Third*—The amount of its capital stock paid up;

*Fourth*—The assets of the company; including, first, the amount of cash on hand, and in the hands of agents or other persons; second, the real estate unincumbered; third, the bonds owned by the company, and how they are secured, with the rate of interest thereon; fourth, debts due to the company secured by mortgage or otherwise; fifth, debts for premiums; sixth, all other securities;

*Fifth*—The amount of liabilities due or owing to the banks or other creditors by the company;

*Sixth*—Losses adjusted and due;

*Seventh*—Losses adjusted and not due;

*Eighth*—Losses unadjusted;

*Ninth*—Losses in suspense, waiting for further proof;

*Tenth*—All other claims against the company;

*Eleventh*—The greatest amount insured in any one risk; which statement shall be filed in the office of the said auditor. No foreign insurance company, or agent thereof, shall transact any business of insurance in this state, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stock or bonds of some one or more of the states of this union, whose bonds are at par, or of the bonds of the United States, at the current market value thereof at the date of such statement, or in bonds secured by mortgage or deed of trust on real estate, worth double the amount for which the same is mortgaged, free from any prior incumbrance, and having undoubted title. The auditor shall be authorized to examine into the condition and affairs of any foreign insurance company doing business in this state, or cause such examination to be made by some person or persons appointed by him having no interest in any insurance company, and whenever it shall appear to the satisfaction of said auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificate

Where statement filed.

Actual capital required of foreign companies.

How such capital to be invested.

Auditor to examine condition, etc., of such companies.

When auditor may revoke certificate.



Notice thereof; how published. granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation published at the capital of this state, and the agent or agents of such company are, on and after such notice, required to discontinue the issuing of any new policy, or of the renewal of any previously issued. When by the laws of any other state, any deposits of money or of securities, or other obligations or prohibitions, are imposed or would be imposed on insurance companies of this state doing, or that might seek to do business in such other state, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions of whatever kind, shall be imposed upon all insurance companies of such other state doing business within this state, or upon their agents here. Every foreign insurance company doing business in this state at the time of making the annual statement as required by law, shall pay into the state treasury as taxes two per cent. of the gross amount of premiums received in this state during the previous year, taking duplicate receipts therefor, one of which shall be filed with the auditor, and upon the filing of said receipt, and not till then, the said auditor shall issue the annual certificate as provided by law, and the said sum of two per cent. shall be in full of state taxes only: *Provided*, That any foreign live stock insurance company which shall invest in this state the whole amount of its net receipts from its business therein, shall pay only one-half of the aforesaid rates.

Effect of such notice. Deposits of money, securities, etc., required in certain cases. Taxes to be paid by foreign companies. Receipts therefor. When auditor to issue annual certificate. To be in full of state taxes only. Proviso as to foreign live stock insurance companies.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

#### CHAPTER XXXIX.

AN ACT to amend and re-enact sections one, twenty-one, twenty-three, twenty-four, twenty-six and thirty-two of, and to add sections thirty-three and thirty-four to chapter one hundred and twenty-one of the acts of one thousand eight hundred and seventy-seven, passed February twenty-eight, one thousand eight hundred and seventy-seven, entitled "an act authorizing the formation of corporations for the purpose of constructing booms or dams for the purpose of stopping and securing boats, rafts, logs, masts, staves, ties, spars and other timber in certain counties in this state.

[Passed March 10, 1881.]

Be it enacted by the legislature of West Virginia:

1. That sections one, twenty-one, twenty-three, twenty-

four, twenty-six and thirty-two of chapter one hundred and twenty-one of the acts of one thousand eight hundred and seventy-seven, passed February twenty-eight, one thousand eight hundred and seventy-seven, be amended and re-enacted so as to read as follows:

1. That any number of persons, not less than five, may become an incorporated company for the purpose of constructing any boom or booms, with or without piers, dam or dams in the rivers, creeks or other streams within any of the following counties in this state, to-wit: Mineral, Pocahontas, Greenbrier, Summers, Raleigh, Fayette, Nicholas, Webster, Wetzel, Harrison, Boone, Wyoming, Tucker, Preston, Putnam, McDowell, Mercer and Logan, which may be necessary for the purpose of stopping and securing boats, rafts, logs, masts, spars, lumber, and other timber. No such boom or dam shall be constructed in any of the rivers, creeks or other streams of the state, which are navigated by steamboats at an ordinary stage of water, above the place where such boom or dam is proposed to be located.

Act amended.

Incorporation of booms and dams authorized.

Within what counties.

In what waters such boom or dam not to be constructed.

21. Every corporation formed under this act shall, in addition to the powers herein conferred, have power—

Additional powers of corporation.

*First*—To cause such examination and survey for its proposed boom, or other structure to be made, as may be necessary to the selection of the most advantageous site, and for such purposes by its officers, agents, engineers, or employes, may enter upon the lands or waters of any person or corporation, but subject to responsibility for all damages that may be occasioned thereby.

For what may enter upon lands and waters of others, responsible for damages, etc.

*Second*—To take and hold such voluntary grants of real estate and other property, as shall be made to it, on and for the construction and use of its boom, and to re-convey the same when no longer required for the use of such boom or booms, and incompatible with the terms of the original grant.

May hold voluntary grants, and convey same, etc.

*Third*—To purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its boom, and the stations and other accommodations necessary to accomplish the object of its incorporation, and to convey the same when no longer required for the use of such boom.

May purchase, hold and use real estate, etc.

*Fourth*—The said corporation shall, after erecting its boom, have the exclusive privilege of maintaining a suitable boom or booms, with or without piers, dam or dams across the stream designated, within two miles of its boom so erected, for the purpose of stopping and securing boats, rafts, saw-logs and other timber of value; but such boom or booms shall be so constructed as to permit boats, rafts and other timber, when desired by the owners, to pass them without unavoidable delay, and without paying toll, boomage

Exclusive privilege of corporation.

How boom constructed.

For what charges not to be made.

May erect shear booms, dredge channels, etc.

May build saw mills and manufacture and sell lumber, etc.

May have lands for tramway condemned.

May purchase, hold and sell timber lands, etc.

Rate of boomage or toll to be charged.

How determined by commissioners.

Commissioners to be versed in timber and lumber business.

Duty of commissioners.

In determining rate, what to be taken into consideration.

Separate rate for specific kind of timber or lumber.

or other charges, and may erect shear booms on the rivers and other streams, and may dredge and clear the channels thereof, and remove obstructions therefrom, and may build saw-mills on lands acquired in any other way than by condemnation, and manufacture and sell lumber and construct tram-railways and dams, and do such other work as may be necessary for the purpose of getting logs and lumber to, down and from the river and its branches on which said boom is located; and in the event the lands necessary for such tram-railway cannot be purchased from the owner or owners thereof, at a reasonable price, then the said corporation may have the same condemned for such purpose in the manner now provided by law for cases of a similar nature.

*Fifth*—The said corporation is authorized and empowered to purchase, hold and sell timber lands, and lands necessary for their saw mills, lumber yards, tram-railways, and wharves.

*Sixth*—Boomage or toll shall be charged at a rate not less than twenty-five cents nor more than one dollar per thousand feet, board measure, or not less than twenty nor more than eighty cents for one hundred cubic feet, except as hereinafter provided, which rate shall be determined by a commission in the manner following, to-wit: The circuit court of each county whose timber can be floated into the boom, or the judge of such court in vacation, shall appoint one person, not a stockholder in said corporation, or otherwise interested therein, and the said corporation shall appoint a person, not a stockholder, or otherwise interested in said corporation, and if the number of persons so appointed be even, they shall choose an odd number. The persons so appointed and chosen shall be well versed in the timber and lumber business, and be qualified to make such measurement and calculations as may be necessary. Persons so appointed or chosen shall constitute a commission whose duty it shall be to fix the rates of boomage which the corporation may charge; and in determining this rate they shall take into consideration the ease or difficulty, as the case may be, of booming logs, &c., in said boom, and also any extraordinary expenditure of money which the corporation may have made to facilitate their business; and the said commissioners shall fix a rate, which shall be in their judgment a fair and just compensation to the corporation for the capital invested and labor performed in booming logs, timber, &c., in the limits above prescribed. And said commissioners may, in their discretion, or when requested to do so by parties interested, fix the separate rate which shall be charged for logs, ties, lumber, staves or any other specific kind of lumber or timber, which may be floated into such boom, by the hundred, thousand, or by the bulk,

as the case may be. The report of such commissioners shall be filed in the office of the clerk of the circuit court of each county, in which a commissioner was appointed, and published in some newspaper of general circulation in the counties interested in the said boom, and within ten days after the report has been agreed upon. Should the corporation, or any interested party, not be satisfied with the report of the commissioners, they may take exceptions thereto, which exceptions may be heard by the judge of the circuit court of any county interested, in term time, or at chambers, and if it appear to the court, or judge, that the rates established by the commissioners are unjust, either to the corporation or to private persons, said report may be set aside and a new commission appointed. But unless exceptions are taken to the report of said commissioners within thirty days after the filing of the same, the report shall be taken as confirmed, and be binding upon all parties interested. Any corporation organized under the provisions of this act, or any party interested, may, if it so desires, ask for a commission once every five years, to revise the rate of boomage; such commission to be constituted as provided for in this section. When the stream boomed lies wholly in one county, there shall be two commissioners appointed by the circuit court of that county, who, together with the one appointed by the corporation, as hereinbefore provided, shall constitute such commission. If any controversy shall arise between the said corporation and any person, or persons, having timber or other lumber in said boom, on account of such lumber, or the rates of boomage, the commissioners authorized to be appointed by this section may, if the parties interested and such corporation so desire it, act as arbitrators to settle the same in such manner and with such results as the law provides in other cases of arbitration. The commissioners appointed under this section shall receive three dollars per day for their services, to be paid by such corporation, except that after the rates have been fixed, any subsequent commission shall be paid by the party asking it.

Where report of commissioners filed.

How and when report published

Report may be excepted to.

When exception may be heard.

For what report set aside and new commission appointed.

Exception to be taken to within certain time or report taken as confirmed, etc.

Rate may be revised every five years; how.

If stream boomed lies wholly in one county, three commissioners to be appointed from such county.

Pay of commissioners and how paid.

When paid by party asking commission.

Lien on logs, etc., for toll.

*Seventh*—The said corporation shall have a lien, on all saw-logs and other timber and lumber thus boomed for the payment of all toll for booming, until the same shall be paid.

*Eighth*—That if any timber shall have been boomed securely, as aforesaid, and no person shall appear to claim the same and pay the tolls thereon, within *ninety* days, it shall be lawful for the corporation, after advertising the same for three weeks in some newspaper, published nearest the said boom or booms, and by posting the same for three weeks, at three public places nearest the said boom or booms, reciting the marks thereon, to make application to any justice of the peace of the said county, whose duty it

When and how unclaimed timber may be sold by corporation.

Within what time owner may receive proceeds

When to inure to general school fund.

Where several companies are operating on same stream, what then.

When parties disagree, how measurement of timber determined.

Expenses; by whom paid.

Logs, timber, etc., of corporation lodged on land of another; within what time to be removed.

Penalty on person for converting to his own use, etc., such logs, etc., within time allowed for removal.

Liability of corporation for damages.

Liability of corporation for logs, etc.; exception.

Memorandum of logs to be filed with clerk

shall be, upon proper proof of the publication and posting of such notice, to direct a sale of such timber, and designate some officer or other person to make such sale, either by public auction or by private sale, as to the justice shall seem most advantageous to the parties interested, and at any time within a year from said sale, the owner shall be entitled to receive the proceeds thereof, after deducting the toll and expenses; but if not claimed within the said one year, the proceeds shall inure to, and be vested in the general school fund.

*Ninth*—Where several companies are operating on the same stream, the upper companies shall pass, free of charge, through or around their booms, with as little delay as possible, all logs, lumber, etc., distinctly marked as belonging to, or in care of, the boom or booms below them.

23. If the parties interested shall not agree as to the measurement of the timber in said boom, it shall be done by commissioners appointed by the circuit court of the county, or by the judge thereof in vacation, in which such boom is located; or the same may be measured, if the parties so desire it, by the commissioners authorized to be appointed, by the twenty-first section; the expenses of such commission, in either case, shall be paid by the party in error as to the measurement, and if both parties shall be found to be in error, said expenses shall be paid by them equally.

24. If any logs, timber, or other lumber of said corporation, while floating down any stream, be lodged upon any improved lands or enclosure of another, it shall be the duty of said corporation to cause the same to be removed therefrom within sixty days from the time such logs, timber or lumber is so lodged. If any person shall, without the authority of said corporation, during the said sixty days, take, carry away, injure or destroy, or convert to his own use any of said logs, timber or lumber, he shall be guilty of a misdemeanor, and fined not less than ten dollars, and at the discretion of the court be imprisoned not less than ten days. But the said corporation shall be liable to the owner of the land for any damages sustained by him by reason of said logs, timber or lumber remaining thereon.

26. The said corporation shall be liable for all logs, timber and other floatables which may come into its boom, except when they sink in deep water, or are carried away by unusually high water, or are destroyed by fire, not caused by the negligence of said corporation, its agents or employes.

32. But before the persons driving logs in the said counties shall put their logs in any of the streams of said

counties, for the purpose of driving them, they shall file a memorandum with the clerk of the county court where- in said logs are, stating distinctly the brand or marks of such person; and unless these requirements are complied with, such corporation shall in no manner be held liable for any loss occasioned by the loss of said logs.

of county court. What to be stated therein. Otherwise corporation not liable for loss of logs.

33. No company incorporated under the provisions of this act shall so exercise its corporate privileges, as to materially obstruct any public road or ford across any stream.

Public road or ford not to be obstructed.

34. The county court of any county not mentioned in the first section, upon the petition of fifty voters thereof, shall submit the provisions of this chapter to the voters of such county for adoption or rejection, at the next ensuing election for members of the legislature, and if a majority of the votes cast on the question be in favor of adopting the provisions of this act for such county, then the same shall be in force in said county to the same intent and purpose as though said county was mentioned in section one of this chapter.

Provisions of this chapter to be submitted to a vote in counties not mentioned; how. To be in force in such county when adopted by a majority of the votes cast.

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

Acts repealed.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER XL.

AN ACT fixing times for holding the terms of the circuit courts in the thirteenth judicial circuit.

[Passed January 18, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the commencement of the terms of the circuit courts in the several counties of the thirteenth judicial circuit in each year shall be as follows :

Thirteenth judicial circuit.

For the county of Morgan, on the first Tuesday in January, first Tuesday in April and the second Tuesday in August.

Times for the circuit courts in Morgan county.

For the county of Jefferson, on the second Tuesday in January, third Tuesday in May, and fourth Tuesday in August.

Jefferson county.

For the county of Berkeley, on the first Tuesday in

Berkeley county.

February, third Tuesday in April and second Tuesday in October.

[Approved January 24, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

[FURTHER NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

A subsequent act was passed fixing the times for holding the circuit courts in the thirteenth judicial circuit, and is printed in this volume as chapter I.

## CHAPTER XLI.

AN ACT to amend and re-enact sections one and two of chapter fifty-eight of the acts of one thousand eight hundred and seventy, providing for the independent school district of Ravenswood.

[Passed January 25, 1881.]

Be it enacted by the Legislature of West Virginia:

Acts of 1870  
amended.

1. That sections one and two of chapter fifty-eight of the acts of one thousand eight hundred and seventy be amended and re-enacted so as to read as follows:

Ravenswood;  
what constitutes  
the school dis-  
trict of.

1. The town of Ravenswood, and the tract of two thousand four hundred and forty acres of land, granted to General George Washington, on which it is located, shall constitute an independent school district. And a board of education, to consist of three commissioners, and which shall have exclusive control of the schools within the same, shall be elected as provided for by law.

Board of educa-  
tion.

Property vested  
in board.

2. The property, real and personal, within the district of Ravenswood, now vested in the board of education of said district, shall remain so vested in said district until sold or disposed of by said board of education, which said board of education may do, with the sole intent and purpose of securing more suitable grounds and buildings for the accommodation of the said schools; and said board shall have the same rights, and shall exercise the same powers, and perform the same duties, including the right to purchase and hold land for school buildings within the corporate limits of the said town, and be governed by the same laws as boards of education of districts are, except only so far as otherwise provided in this act.

Powers and  
duties of the  
board.

3. All acts and parts of acts inconsistent with this act Acts repealed. are hereby repealed.

[Approved February 3, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote Commencement taken by yeas and nays, having so directed.

## CHAPTER XLII.

AN ACT authorizing a copy of a deed, will or other writing to be admitted to record under certain circumstances.

[Passed January 23, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the clerk of the county court of the proper county in this state, shall, upon the application of any person claiming an interest in one or more lots or tracts of land conveyed or disposed of by deed, will or other writing, which has been duly admitted to record in the proper court or office in the state of Virginia, or in this state; and the book containing the record of such deed, will or other writing has been lost or destroyed, to be shown by affidavit, shall admit to record a duly attested copy of such deed, will or other writing, which shall have the same force and effect as the record in the book lost or destroyed. Copy of deed, will, etc. where book containing record thereof has been destroyed, may be admitted to record how, and where.

[Approved February 4, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote Commencement. taken by yeas and nays, having so directed.

## CHAPTER XLIII.

AN ACT to repeal an act, entitled "an act to create a county court and a board of commissioners for the county of Wood, under the thirty-fourth section of the eighth article of the constitution, approved March 11, 1879."

[Passed February 4, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the act entitled "an act to create a county court and a board of commissioners for the county of Wood," Act of 1879, creating a board



of commission-  
ers for Wood  
county,  
repealed.

under the thirty-fourth section of the eighth article of the constitution, and passed the eighth day of March, one thousand eight hundred and seventy-nine, be, and the same is hereby repealed.

[Approved February 9, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

#### CHAPTER XLIV.

AN ACT to amend and re-enact section one of chapter forty-nine of the acts of one thousand eight hundred and seventy-seven.

[Passed February 9, 1881.]

Be it enacted by the Legislature of West Virginia :

Acts of 1877.  
amended.

1. That section one of chapter forty-nine of the acts of one thousand eight hundred and seventy-seven be amended and re-enacted so as to read as follows :

Depositories of  
public money;  
what banks  
board of public  
works may  
designate as,

1. That the board of public works may designate any national bank or banks, and any bank or banks chartered pursuant to the laws of this state, with paid up capitals of twenty thousand dollars, or more, as depositories of money belonging to the state, and shall contract with said banks for the payment of interest thereon, at a rate not less than two per cent. per annum, for such time as any deposit, or part thereof, may remain in such banks.

Rate of interest  
to be contracted  
for.

[Approved February 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commence-  
ment.

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

#### CHAPTER XLV.

AN ACT to regulate the practice of dentistry [in this state, and] to protect the [people] against empiricism in relation thereto.

[Passed February 14, 1881.]

Be it enacted by the Legislature of West Virginia :

Dentistry; un-  
lawful for  
person to engage

1. It shall be unlawful for any person to engage in the practice of dentistry, for compensation, in this state, unless

such person shall have received a diploma from some dental college, duly incorporated under the laws of this state, or some of the United States, or foreign government, in which is annually delivered in good faith a full course of lectures and instruction in dentistry, or shall have obtained a license from a board of dentists, duly authorized and appointed by the authorities of this or some one of the United States, in the manner hereinafter mentioned.

in the practice of, without diploma, or license.

2. It shall be the duty of the board of public works to appoint nine dentists, learned in the profession, three of whom shall be appointed in each congressional district, who shall constitute a board for the examination of applicants in their own district, and before which all applicants for license to practice dentistry shall appear and be examined touching his proficiency in said art or profession, and if two or more of said board shall deem the said applicant qualified to practice said profession, they shall sign said license. For making which examination the said examiners shall have a fee of two dollars each, to be paid by the applicant; *Provided*, That nothing in this act shall prevent any person from extracting teeth, or in any manner interfere with any person now engaged in the practice of dentistry in this state. The term of office of such board shall be five years.

Board of examiners to grant license; how appointed.

When license to be granted by board. Fee for examination.

Proviso as to extracting teeth and persons now practicing.

Term of such board.

3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than ten or more than one hundred dollars.

Penalty for violating provisions of act.

[Approved February 21, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement.

## CHAPTER XLVI.

AN ACT for the relief of William J. Grantham, of the county of Jefferson.

[Passed February 15, 1881.]

WHEREAS, About the year one thousand eight hundred and sixty-six, W. J. Grantham purchased of Josiah and Ephraim Watson a certain track or parcel of land; and,

Preambles.

WHEREAS, The assessors transferred said tract of land to William J. Grantham, but did not erase it from said Josiah and Ephraim Watson, and the said William J.

Grantham paid state and state school taxes on said land in both names for the years, one thousand eight hundred and sixty-eight, one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, amounting to the sum of thirty dollars and sixty-five cents; therefore,

Be it enacted by the Legislature of West Virginia :

Appropriation  
to pay Wm. J.  
Grantham; for  
what.  
Auditor di-  
rected to pay.

1. That the sum of thirty dollars and sixty-five cents be, and is hereby appropriated out of the treasury of this state not otherwise appropriated, to refund said taxes erroneously assessed and paid, and the auditor be, and is hereby directed to draw his warrant on the treasurer in favor of William J. Grantham for said amount.

[Approved February 21, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LXVII.

AN ACT to authorize the governor of this state to employ additional counsel to defend the interest of this state in two causes in which the Chesapeake and Ohio Railway Company are complainants, and Joseph S. Miller, auditor, defendant, now pending in the circuit court of Ohio county.

[Passed February, 14, 1881.]

Be it enacted by the Legislature of West Virginia :

Governor  
authorized to  
employ  
additional  
counsel to  
defend interests  
of state in cer-  
tain causes.

1. That the governor be, and he is hereby authorized and empowered from and after the eighth day of March, one thousand eight hundred and eighty-one, to employ additional counsel to assist the attorney general of this state to defend two causes, in which the Chesapeake and Ohio railway company are complainants, against Joseph S. Miller, auditor, defendant, now pending in the circuit court of Ohio county, and to attend to the interest of this state in said suits.

2. That the sum of five hundred dollars, be, and is here- Appropriation  
by appropriated to pay the said counsel for any services to pay.  
he may render the state under the provisions of this act,  
in any of the courts of this state, to be paid at such time When paid.  
or times as the governor may direct.

[Approved March 7, 1831].

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two- Commencement  
thirds of the members elected to each House, by a vote  
taken by yeas and nays, having so directed.

CHAPTER XLVIII.

AN ACT to authorize banks to change the amount of  
their capital stock:

[Passed February 23, 1831.]

Be it enacted by the Legislature of West Virginia:

1. That any company formed, or which may be hereaf- Banks author-  
ter formed, for the purpose of carrying on the business of ized to change  
banking under the provisions of chapter two hundred and amount of cap-  
fifteen of the acts of one thousand eight hundred and ital stock; how  
seventy-two and three, may, by resolution, at any general, and when  
adjourned or special meeting of the stockholders thereof,  
make such increase or reduction of the capital stock and  
par value thereof as may be decided upon by said stock-  
holders, a majority of the stock of such company being  
represented by the holders thereof, and such holders being  
present in person, or by proxy, and voting for such in-  
crease or reduction; *Provided*, That no increase or reduc- Provisions to  
tion shall conflict with the limitation proscribed by sec- such increase or  
tion twelve of said chapter, and that a notice under the reduction.  
signature of the president of said company of the inten- Notice in such  
tion to offer such a resolution shall be sent through the cases.  
mails of the United States to each stockholder ten days  
previous to such meeting; or that notice of such intention  
be given by advertisement, published once a week for two  
successive weeks, in some weekly newspaper of general  
circulation, printed in this state, or for ten successive days,  
Sundays excepted, in some daily newspaper of like circu- Duty of presi-  
lation, printed in said state. When such increase or reduc- dent of bank  
tion shall have been made by any such company, the when such in-  
president thereof shall, under his signature and the seal of crease or reduc-  
the company, certify the resolution to the secretary of tion is made.  
state, and the secretary of state, under his hand and the Duty of secre-  
great seal of the state, shall issue to such company a cer- tary of state.  
tificate reciting the resolution and declaring such increase

Effect of certificate of secretary.

or reduction to be authorized by law, and such certificate shall be evidence of such increase or reduction, and of the authority to make the same in all courts and places.

[Approved March 7, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XLIX.

AN ACT to amend an act to establish the school district of Wellsburg, in the county of Brooke, state of West Virginia, passed July eleven, one thousand eight hundred and sixty-eight.

[Passed February 19, 1881.]

Be it enacted by the Legislature of West Virginia :

Boundaries of district.

1. The town of Wellsburg and parts of school districts contained in the following boundaries, to-wit: Beginning at the Ohio river at the mouth of Buffalo creek, and running up said creek to the mouth of Panther run; thence including the lands of Samuel Jacob, Campbell Tarr's heirs, and the home farm of William L. Miller; thence including the lands owned July eleventh, one thousand eight hundred and sixty-eight, by James W. Cox and George Cox, Sr., to the Ohio river; thence down said river to the place of beginning, shall constitute one school district, to be called the independent school district of Wellsburg.

Board of education; of whom to consist and how elected.

Powers and duties of board.

2. The board of education for said district shall consist of three members, who shall be freeholders, and who shall be elected by the qualified voters resident therein, and shall be invested with the same rights, and exercise the same powers, perform the same duties and be governed by the same laws, that boards of education elsewhere in the county are, or may be hereafter governed, except in so far as changed by the provisions of this act.

Board incorporated.

Powers of such corporation.

3. The board of education herein provided for shall be a corporation by the name of the "board of education of Wellsburg district," and by that name may sue and be sued, plead and be impleaded, contract, purchase, hold and grant estate, real and personal, make ordinances, by-laws and regulations consistent with the laws of this state, for the government of all persons and things under its authority, and the due and orderly execution of its affairs.

4. The qualified voters of said district, shall every year elect one member of the board of education, commencing at the first election for councilmen and officers for the town of Wellsburg, after the passage of this act, except that when the board may consist of more than three members, as hereinafter provided, one or more members shall be elected at each annual election, and such member or members of said board shall be elected at the time and place of the regular town election, and such election shall be conducted by the same officers who shall conduct the town election, and without additional compensation, and, in all respects, the said election shall be a part of the regular town election, except that the residents of the said district outside the corporation of Wellsburg, who are qualified, may vote at the court house for member or members of said board, and that a separate poll-book and ballot-box shall be kept and used in the election of the said member or members of said board of education.

Election of members of board of education; when.

Exception when board consist of more than three members.

How elections conducted, etc.

Who may vote.

Separate poll-book and ballot-box.

5. The board of education at any time after the passage of this act, may provide for a separate polling place or places, and for elections to be held thereat, by non-residents of the corporation residing within the district, for a member or members of the board of education, as the case may be; and the vote taken at such voting place or places, shall be certified, counted and added to the vote taken at the court house, in all respects and in like manner as if the vote had been taken thereat. The laws applicable to officers conducting other elections in the county shall apply in conducting elections held under the provisions of this act. Every member so elected as above, shall hold his office for the term of three years next succeeding his election and qualification. The two members of the board now in office, in pursuance of the law in force previous to this act, shall continue in, and retire from the same in pursuance of the provisions of said law, so that at no time the board shall consist of more than three members, except as hereinafter provided. Should a vacancy occur in said board, by death, resignation or otherwise, the board may fill said vacancy by appointment; said appointment to be for the unexpired part of the term of the member whose place may have become vacant.

Board may provide separate polling place etc for what purpose.

How such vote certified etc.

Laws applicable.

Term of office of members.

When present members of board to retire, etc.

How vacancies filled.

6. For every five hundred of an increase hereafter, of the population of said district, an additional member may be elected in the manner hereinbefore provided, until the board shall consist of five members, and at least one member of the board hereafter elected, shall be a resident of the district outside the corporation of Wellsburg. The board as enlarged to five members, may provide for a division of the district, and the establishment of new schools within the same, subject to the provisions of this act and the general laws of the state applicable to

When additional members of board may be elected; until, etc.

One member to reside outside corporation.

What enlarged board may do.

Election of president and clerk; when.

such matter. At the first meeting of the board, after the qualification of the new member or members, which must be within ten days after the election, the board shall organize by electing a president, who shall be one of their number, and shall also elect a clerk, who may or may not be a member of said board, who shall be entitled to the same compensation allowed by law to clerks of other boards of education in this state.

Compensation of clerk.

Sheriff to collect and disburse school funds; how.

7. The sheriff of Brook county shall be the collector and disbursing officer of the school funds of Wellsburg school district, in the same manner as this fund is collected and disbursed in the other school districts of the state, except that the board may, at its option, draw upon the school or building fund in its hands subject to draft, so long as the debt incurred for building the Union school house in Wellsburg shall remain unpaid, but the clerk of the board of education shall keep separate accounts, which shall show upon which fund in the sheriff's hands all drafts are made. The board may annually levy, not exceeding fifty cents on every hundred dollars worth of the taxable property of the district, for school and building purposes, and may assess a further levy of ten cents for an expense fund.

Exception.

Clerk to keep separate accounts.

Annual levy.

When board to meet to make levy. Notice of such meeting; what to contain, etc.

8. It shall be the duty of the board of education of Wellsburg school district to meet at a stated time and place in each year, subsequent to the returns of the assessor, of the taxable property of that year, of which meeting notice shall be given by publication, of not less than three weeks, in some newspaper published in the town of Wellsburg, setting forth the time, place and object of said meeting, and levy a sum not exceeding the rate provided in this act, upon all the property in the district, for the support of the Union school of Wellsburg, and every additional school when such shall have been established in pursuance of section six of this act, for a period of not less than five months in each year, and also for the payment of the debts contracted, or which may be hereafter contracted, for the building or repairing of the said Union school house, or the erection or repair of any additional school building that may become necessary by the increase of the population in said district. In the event of the failure of said board to make the levies on the day as provided for in this act, said board may nevertheless, afterwards, at a meeting at which all the members are present, make an assessment or levy as fully and to the same effect as if made on said day so provided for.

For what purposes levy to be made.

Provisions when board fail to make levies at time provided.

Board may issue bonds, etc.

How long such bonds to run. Exempt from taxes.

9. The said board of education may issue bonds for building purposes, and negotiate loans of money, at a rate of interest not exceeding six per cent. per annum. Said bonds shall not run longer than ten years from their date, and shall be exempt from county and township taxes.

10. The said board shall have authority to prescribe the school books to be used, and the courses of study to be pursued in the school or schools of said district.

Board to pre-  
scribe school  
books and  
course of study.

[Approved March 7, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

Commencement

## CHAPTER L.

A BILL to change the name of "the Potomac and Piedmont coal and railroad company," and to confer additional powers thereon.

[Passed February 23, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That an act passed February twenty-sixth, one thousand eight hundred and sixty-six, entitled "an act to incorporate the Potomac and Piedmont coal and railroad company," be amended and re-enacted so as to read as follows:

Acts 1866,  
amended.

1. That the name of said, the Potomac and Piedmont coal and railroad company," be, and the same is hereby changed to that of the "West Virginia Central and Pittsburgh railway company," and by that name shall have succession, and have power to sue and be sued in any court whatever, and may have and use a common seal, and the same alter and renew at pleasure, and shall have all the powers, rights and franchises necessary and proper for the carrying on the mining of coal, the building of manufactories, saw-mills or furnaces, the burning of brick, the manufacturing of lumber, and the buying and disposing of the same, together with the right to buy and sell real estate, and for the transportation of coal and other products of its mines and property to market, and shall have power and authority to make and pass such by-laws, rules and regulations for the management and government of the affairs of said corporation and its officers, directors and agents, as may be deemed necessary or proper, which may also be amended, changed or repealed at any and all regular meetings of the stockholders of said company; *Provided however*, That such by-laws shall not be repugnant to any law of this state, or the United States.

Name changed.

Powers of cor-  
poration.

2. That the capital stock of said company shall not exceed the sum of ten millions of dollars, to be divided into

Capital stock.



How payment may be made.	<p>shares of one hundred dollars each, and shall be considered as personal property, and shall be transferable in such manner as may be provided by the by-laws of said company, and each share thereof, shall entitle the holder thereof to one vote in all meetings of the stockholders of said company, to be given either in person or by proxy, and payment may be made for the whole or any part of such capital stock, either in land or other property, or money, and if land or other property, then at such price and valuation as may be agreed upon. The president and directors of said company, shall have power at any time hereafter, and as often as they may deem necessary, and without opening a new books of subscription. to receive further subscription, to said capital stock, and to augment the same to such extent as may be authorized and fixed at any general meeting of the stockholders of said company, not to exceed ten millions of dollars; and it may be lawful for all persons and bodies corporate or politic whatsoever, to become subscribers for and owners of the capital stock of the said company.</p>
When and how further subscriptions received.	<p>3. That the affairs of said company shall be managed by the directors of said company. A general meeting of the stockholders of said company shall be held at such time and place as the directors for the time being may appoint, for the purpose of electing a president, vice-president and directors of said company to serve for one year thereafter, and until the next election shall be held; and subsequent elections for president and directors of said company shall be annually held thereafter, at such times and places as the by-laws of said company may prescribe; and the said directors of said company shall have all the powers and authority given them by this act, and such other power and authority not inconsistent with the provisions of this act, nor with the laws of this state, or United States, as may be conferred on them by the resolutions and by-laws of said company.</p>
Who may subscribe, etc.	<p>4. That the directors of said company shall consist of such number, not less than five nor more than ten, as the by-laws of said company may prescribe, all of whom shall be stockholders in said company, and the president and vice president may be elected directors, and the president, vice president and directors of said company shall have power to appoint and remove all officers, servants and agents of the company; to manage and conduct all its business of every kind; to borrow money at any time, and from time to time, for the use of the said company; and to execute, if deemed by them necessary and expedient, any deed or deeds of mortgage or trust as security for the payment and fulfillment of any or all of its debts, contracts or liabilities.</p>
President, Vice-President and directors; election of, when.	<p>5. That all meetings of the stockholders of said com-</p>
Their term of office.	
What powers and authority directors to have.	
Of what number directors to consist, and who to be.	
Powers of president, vice-president and directors.	
Meetings.	

pany may be held at such place or places as the directors of said company may from time to time appoint, and all meetings of the president and directors of said company may also be held at any place or places which the president of said company may from time to time appoint; and in all meetings of the stockholders, a majority of said stockholders, and in all meetings of said president and directors, a majority of said president and directors shall constitute a quorum for the transaction of business. The vice president shall be elected annually at the same time and in the same manner as the president and directors are chosen; and it shall be the duty of the vice president, in the absence of the president, to discharge all the functions of the president, and to perform such other duties as may be heretofore prescribed for such office by the by-laws of said company.

Quorum.

When vice-president elected; his duties.

6. That the said company be and the same is hereby invested with all and singular, the rights, power and authority necessary to enable it to locate, construct and maintain such railroad, or railroads, as the directors may deem necessary for the convenient transaction of its business, from any point on the line of the Baltimore and Ohio railroad, along the waters of the North Branch of the Potomac river, or any of its tributaries; and also along the waters of the Cheat, the Tygart's Valley and Greenbrier rivers, to any lands or mines owned by said company in the counties of Mineral, Grant, Tucker, Randolph, Pocahontas and Greenbrier, with the privileges, power and authority of extending it to the town of Piedmont, in the county of Mineral; and also with the privilege, power and authority of locating, building and extending, maintaining and operating its road along the waters of Tygart's Valley river, from its head-waters to the Monongahela river, and down the Monongahela river to the south boundary of Pennsylvania; or along the head-waters of the Cheat river, and down the same to the south boundary of the state of Pennsylvania, or both, if such company should see fit; and also, with the privilege of making a connection with the Chesapeake and Ohio railway company, and the Washington and Ohio railroad company, the Richmond and Allegheny railroad company, or any other railroad company, or companies, with the power and authority to build, construct and equip such lateral road, or roads, as as may be deemed necessary for the purposes of this act, and with the power and authority to charge and collect tolls on passengers and freight; and for these purposes, and also for the purposes of construction, the said company shall be and is hereby invested with all and singular, the rights, powers, immunities, franchises and privileges for the surveying, locating and constructing of such railroad, or railroads, and for the working, repairing, preserving and controlling the same,

Authority to locate, construct and maintain railroad, etc.

Route of railroad.

Construction of lateral roads.

Authority to charge and collect tolls on passengers, etc.

General railroad laws to govern. and the necessary vehicles and appurtenances thereto belonging, and every part thereof, granted to railroads by the general railroad laws of this state, as if the same were hereby expressly enacted. But this act shall not be construed so as to grant said company immunity from taxation.

Company not granted immunity from taxation.

7. If the said company shall be unable to agree with the owner or tenant of any real estate for the purchase of the real estate, or of the materials therefrom necessary for its corporate purposes, it may have the same condemned for such purposes under the provisions of chapter forty-two of the code of West Virginia; and the provisions of said chapter, and of chapter fifty-two of said code in relation to the condemnation of real estate, and for taking materials from land to be used in the construction of a railroad, and in repairing, altering or enlarging the same, shall be applicable to proceedings for such purposes under this section.

Alteration and amendment of charter reserved. 8. The legislature reserves the right to alter or amend, but such alteration or amendment shall not affect or impair the right of the creditors of the corporation to have the property and assets applied in discharge of their respective claims, nor of the stockholders to have the surplus which may remain after providing for the debts and liability of the corporation distributed among themselves according to their respective interest.

Rights of creditors, etc., not to be impaired, etc.

9. The said company shall commence the building of its road within two years, and have the same in running order between the Baltimore and Ohio railroad and the Chesapeake and Ohio railroad within ten years from the time this act takes effect.

[Approved March 7, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LI.

AN ACT to authorize the county of Jefferson to fund at a lower rate of interest, or on better terms, the outstanding bonds of said county.

[Passed March 2, 1881.]

Be it enacted by the Legislature of West Virginia :

Jefferson county authorized to issue bonds.

1. That the county of Jefferson is hereby authorized to issue, not exceeding two hundred and fifty thousand dol-

lars, in bonds of said county, registered or coupon, bearing a rate of interest not greater than five *per centum per annum*, payable annually or semi-annually; said bonds to be of such form as the county court of said county may prescribe, and of the denominations of one hundred dollars, or multiple thereof, and payable twenty-five years after date and at the pleasure of said county, at any time after three years from their date.

What amount.  
Rate of interest; when payable.  
Form of, and denominations.  
When bonds payable.

2. That said bonds, if so provided on the face thereof by the said court in issuing the same, shall be exempt from assessment for county, district or municipal levies; and the coupons thereof receivable for all county or district levies, assessments, claims or demands due said county of Jefferson.

Bonds, if so provided, to be exempt from taxation for certain purposes.  
Coupons to be received; for what.

3. The county court of said county is hereby authorized to appoint an agent, whose compensation shall not exceed one-third of one per cent., who, after executing bond in such penalty, and with such condition as said court may prescribe, shall sell said bonds at not less than par and accrued interest, and with such proceeds of sale, pay off and redeem any of the outstanding bonds of said county, heretofore issued. Said agent shall also be authorized to exchange any of the bonds issued under the authority of this act for any of the aforesaid outstanding bonds at *par*.

Authority to appoint an agent.  
Compensation. His bond.

His duties.

4. Nothing in this act contained shall authorize any increase of the bonded debt of said county, nor shall the bonds issued under this act, or the proceeds of sale thereof, be used or applied for any other purpose than the payment and redemption of the outstanding bonds of said county, heretofore issued, and bearing a higher rate of interest.

Bonded debt not to be increased.  
Proceeds of sale of bonds; for what purpose to be applied.

[Approved March 8, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LII.

AN ACT to regulate the practice of pharmacy and the sale of medicines and poisons.

[Passed February 21, 1881.]

Be it enacted by the legislature of West Virginia :

1. It shall be unlawful for any person, not a registered pharmacist, or who does not employ exclusively as his salesman a regular pharmacist, within the meaning of this

Persons retailing, compounding or dispensing medicines

or poisons, must be registered pharmacists.

Exception. :

Unlawful for proprietor of store or pharmacy to allow any except registered pharmacists to compound or dispense physicians' prescriptions, etc.  
Exception.  
Violation a misdemeanor.  
Penalty therefor

act, to conduct any pharmacy, drug store, apothecary shop or store for the purpose of retailing, compounding or dispensing medicines or poisons for medical use, except as hereinafter provided.

2. That it shall be unlawful for the proprietor of any store or pharmacy to allow any person except a registered pharmacist to compound or dispense the prescriptions of physicians, or to retail or dispense the poisons named in schedules A and B herein for medical use, except as an aid to, and under the supervision of a registered pharmacist. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars for each and every offense.

Commissioners of pharmacy; how appointed; one from each congressional district.

Term of office.

Vacancies.

Commissioners to have power to make by-laws and regulations, and to examine applicants and grant certificates.

Registry to be made of all persons to whom certificates are issued.  
Duplicate of registry to be kept in office of secretary of state.  
Certain persons, to be registered, without examination.

3. The board of public works shall appoint one person from each congressional district, from among the most competent pharmacists of the state, all of whom shall have been residents of the state for five years, and of at least five years' practical experience in their profession, who shall be known as commissioners of pharmacy for the state of West Virginia; one of whom shall hold his office for one year, one for two years, and the other for three years, and each until his successor shall be appointed and qualified; and each year thereafter another commissioner shall be so appointed for three years, and until a successor be appointed and qualified. If a vacancy occur in said commission, another shall be appointed, as aforesaid, to fill the unexpired term thereof. Said commissioners, a majority of whom may act, shall have power to make by-laws and all necessary regulations for the proper fulfillment of their duties under this act, without expense to the state, and to examine applicants and grant certificates.

4. The commissioners of pharmacy shall register, in a suitable book, a duplicate of which is to be kept in the office of the secretary of state, the names and place of residence of all persons to whom they issue certificates, and the dates thereof. It shall be the duty of said commissioners of pharmacy to register, without examination, as registered pharmacists, all pharmacists and druggists who are engaged in business in the state of West Virginia, at the passage of this act, as owners or principals of stores or pharmacies for selling at retail, compounding or dispensing drugs, medicines or chemicals for medical use, or for compounding and dispensing physicians' prescriptions; and all assistant pharmacists, not under eighteen years of age, engaged in said stores or pharmacies in the state of West Virginia at the passage of this act, and who have been engaged as such in some store or pharmacy where physicians' prescriptions were compounded and dispensed, for not less than five years prior to the passage of

this act: *Provided, however,* That in case of failure or neglect on the part of such person or persons to apply for registration within sixty days after they shall have been notified, they shall undergo an examination such as is provided for in section five of this act. *Provided.*

5. That the said commissioners of pharmacy shall, upon application, and at such time and place, and in such manner as they may determine, examine, orally or otherwise, under such regulations as they may by by-law prescribe, each and every person who shall desire to conduct the business of selling at retail, compounding, or dispensing drugs, medicines or chemicals for medicinal use, or compounding or dispensing physicians' prescriptions as pharmacists; and if a majority of said commissioners shall be satisfied that said person is competent and fully qualified to conduct said business of compounding or dispensing drugs, medicines or chemicals for medicinal use, or to compound and dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist, in the book provided for in section four of this act; and that all graduates in pharmacy, having a diploma from an incorporated college or school of pharmacy, that requires a practical experience in pharmacy of not less than four years before granting a diploma, shall be entitled to have their names registered as pharmacists by said commissioners of pharmacy without examination. Applicants for registration; how examined.  
  
Graduates in pharmacy from an incorporated college or school of pharmacy, to be registered without examination.

6. That the commissioners of pharmacy shall be entitled to demand and receive from each person whom they register and furnish a certificate as a registered pharmacist, without examination, the sum of two dollars; and from each and every person whom they examine orally, or otherwise, the sum of five dollars, which shall be in full for all services. And in case the examination of said person shall prove defective and unsatisfactory, and his name not be registered, he shall be permitted to present himself for re-examination within any period not exceeding twelve months next thereafter, and no charge shall be made for such re-examination. Fees to be paid commissioners by applicants for registry.  
  
Persons proving defective in their examination, may be re-examined within twelve months.

7. Every registered pharmacist shall be held responsible for the quality of all drugs, chemicals and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines;" and should he knowingly, intentionally and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals or medical preparations, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, be liable to a penalty not exceeding one hundred dollars, and in addition thereto his name shall be stricken from the register. Pharmacists to be held responsible for quality of drugs, chemicals and medicines he may sell, etc; exception.  
  
Adulteration a misdemeanor; penalty therefor

8. Apothecaries registered as herein provided, shall have Registered apothecaries 10

keep and sell medicines, etc.

Proviso in relation to the sale of intoxicating liquors.

Restriction as to the sale of poisons.

the right to keep and sell, under such restrictions as herein provided, all medicines and poisons. authorized by the National American or United States dispensatory and pharmacopœu, as of recognized utility. *Provided*, That nothing herein contained shall be construed so as to shield an apothecary or pharmacist who violates or anywise abuses this trust for the legitimate and actual necessities of medicine, from the utmost rigor of the law relating to the sale of intoxicating liquors. and in addition thereto his name shall be stricken from the register.

9. It shall be unlawful for any druggist or registered pharmacist, from and after the passage of this act, to retail any poisons enumerated in scedules "A" and "B," except as hereinafter provided, to-wit :

*Schedule A.*

Arsenic and its preparations. corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, and all other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, alcohol and all intoxicating liquors, except pure goricand other preparations of opium containing less than two grains to the ounce.

*Schedule B.*

How box, vessel or paper containing poison to be marked and distinguished.

How labeled.

Inquiries to be made of purchaser.

Entries to be made by pharmacist; how made.

Aconite, belladonna, colchicum, conium, nux vomica, benbane, savin, ergot, cotton root, cantharides, creasote, digitalis, and their pharmaceutical preparations; croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without distinctly labeling the box, vessel or paper, the box, vessel or paper to be colored black, bearing the death's-head and cross-bones, in which the said poison is contained, and also the outside wrapper, or cover, with the name of the article, the word "poison," and the name and place of business of the seller. All drugs, poisons and preparations sold by any druggist shall be labeled with the name of the article in English, or with the common name of said article. Nor shall it be lawful for any druggist or registered pharmacist to sell or deliver any poison enumerated in schedules "A" and "B," unless upon due inquiry it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in schedule "A" without, before delivering the same to the purchaser, causing an entry to be made, in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser, such

book to be always open for inspection by the proper authorities, and to be preserved for at least five years. The provisions of this section shall not apply to the dispensing of poisons in not unusual quantities or doses upon the prescriptions of practitioners of medicine. Nor shall it be lawful for any licensed or registered druggist or pharmacist to retail or sell any alcoholic liquors or compounds as a beverage; and any violations of the provisions of this section shall make the owner or principal of said store or pharmacy, liable to a fine of not less than twenty-five dollars and not more than one hundred dollars, and, in addition thereto, for repeated violations of this section, his name shall be stricken from the register.

Book to be open to inspection and preserved for five years. Not unlawful to dispense poisons in certain cases.

Penalty for the sale of alcoholic liquors or compounds as a beverage.

10. Any person who shall procure, or attempt to procure, registration for himself, or for another, under this act, by making, or causing to be made, any false representations, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five nor more than one hundred dollars, and the name of the person so fraudulently registered, shall be stricken from the register. Any person not a registered pharmacist, as provided for in this act, who shall conduct a store, pharmacy, or place for retailing, compounding or dispensing drugs, medicines or chemicals for medicinal use, or for compounding or dispensing physicians' prescriptions, or who shall take, use or exhibit the title of a registered pharmacist, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be liable to a penalty of not less than fifty dollars.

Fraudulent registration.

Penalty for.

Penalty for any other than a registered pharmacist retailing, compounding or dispensing drugs, medicines, etc.

11. This act shall not apply to physicians putting up their own prescriptions, nor to the sale of patent, proprietary medicines, and other ordinary drugs and dye-stuffs as are usually sold in a country store.

Not to apply to physicians, or the sale of patent medicines, etc.

12. It shall be the duty of the board to investigate all complaints and charges of non-compliance or violation of the provisions of this act, and to bring the same to the notice of the proper prosecuting officer, as provided for in section seven of this act whenever there appears to the board reasonable grounds for such action.

Commissioners of pharmacy to investigate complaints and infer proper prosecuting attorney of all violations.

13. Whenever any person is prosecuted and fines are collected, one-half of the fines, shall be paid to the board of pharmacy, for the state pharmaceutical association, the remainder shall be paid to the state school fund; but in case no state pharmaceutical association is formed or organized, the full amount of fines shall go to the state school fund.

Fines recovered; how disposed of.

14. All acts and parts of acts inconsistent with this act, are hereby repealed.

Acts repealed.

[Approved March 8, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement



## CHAPTER LIII.

AN ACT removing the control of the free schools, within the corporate limits of the city of Charleston, from the common council thereof, and placing the same in the bands of an independent board of education.

[Passed February 28, 1881.]

Be it enacted by the Legislature of West Virginia :

Control of free schools transferred to independent board of education. From what time.

1. That the entire control of all the free schools within the corporate limits of the city of Charleston shall be transferred from the common council thereof to the independent board of education herein provided for from and after the first day of July, one thousand eight hundred and eighty-one.

Election of commissioners; when held.

2. On the third Tuesday of May, 1881, there shall be elected by the qualified voters of the city of Charleston, six commissioners, who shall constitute an independent board of education for the city of Charleston, and shall have all the powers, duties and liabilities that belong to a district board of education under the general school law of the State, except as qualified or enlarged herein. Said commissioners shall be elected and qualified in all respects as the district boards of education are elected and qualified under the general school law of the state. The term of office of said commissioners shall commence on the first day of July, one thousand eight hundred and eighty-one.

Powers and duties of board of education.

Said commissioners, at their first meeting, shall designate, by lot or otherwise, in such manner as they may determine, three of their number, who shall hold their office for the term of two years, and three of their number who shall hold their office for the term of four years, so that three commissioners shall be elected on the third Tuesday of May every two years after the first election under this act. Said commissioners shall biennially elect one of their number president.

Term of office; when to begin.

How term of office determined.

President; how elected.

Power to grade and control schools.

3. The independent board of education herein provided for shall have power to establish grade, and control such schools within the corporate limits of said city, as they may deem expedient.

School funds and property under control of common council to be transferred to independent board of education.

Duty of sheriff as to school funds.

4. From and after the first day of July, one thousand eight hundred and eighty-one, all school funds and school property belonging to, or under the control of, the common council of said city, shall be transferred to and placed under the control of the independent board of education herein provided for; and from and after the said first day of July, one thousand eight hundred and eighty-one, the sheriff of Kanawha county shall hold the school funds in his hands, or in process of collection, belonging to said city,

subject to the proper order of said independent board of education; except that orders upon him, issued previously to the first day of July, one thousand eight hundred and eighty-one, by the proper school authorities of said city, shall be honored by him to the extent of the several, school funds in his hand belonging to said city.

5. The board of education of Charleston district shall have no jurisdiction or control over the schools of said city.

Board of education of Charleston district; to have no jurisdiction.

[Approved March 8, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LIV.

AN ACT in relation to the collection of tolls on the Great Kanawha river, and to terminate the existence of the Kanawha board.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That no tolls on the Great Kanawha river shall hereafter be levied or collected by, or under the authority of the Kanawha board, in pursuance of the provisions of the act passed March three, one thousand eight hundred and sixty-nine, entitled "an act to enlarge the powers and define the duties of the Kanawha board, and to authorize them to prosecute the improvement of the Kanawha river," or otherwise, except as follows:

Collection of tolls except for specific purposes, abolished.

*First*—To pay an existing indebtedness, for the payment of which the said board is, or may be adjudged to be liable, and the costs of any suit or suits to enforce such liability; and,

To pay existing indebtedness; and.

*Second*—For the purpose of paying the necessary expenses of removing obstructions to the navigation of said river, which cannot otherwise be removed than by or under the direction of said board.

For the removal of obstructions

2. The board shall in no case be liable in damage, for any loss or injury that any boat, raft, cargo or party may sustain, using or navigating said river.

Board not liable for damages from loss or injury from navigation of river.

3. The board of public works is authorized and directed, on behalf of the state of West Virginia, to turn over and surrender to the United States government, the full control of the Great Kanawha river, with all its improve-

Board of Public Works authorized to transfer, etc., to United States, full control of Kanawha

river, when, etc. ments heretofore made by this state, or the state of Virginia, so soon as the United States government shall agree to take charge and control of said river; and when that has been accomplished, the Kanawha board shall close up its business in the shortest practicable time, by collecting all debts due to it, and by selling its property of all kinds; and out of the proceeds thereof, paying its legal indebtedness as of the date of such transfer; and the surplus of such proceeds, if any, shall be paid into the treasury of this state, to the credit of the general school fund. And so soon as the aforesaid purposes have been accomplished, the board of public works shall give notice to said Kanawha board, that said Kanawha board has ceased to exist; and thereupon said board shall cease to exist.

When Kanawha Board to close up its business.

Property; how disposed of.

Notice to be given by Board of Public Works.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LV.

AN ACT to provide a suitable block of stone to be placed in the Washington monument, by this state.

[Passed March 3, 1881.]

Be it enacted by the Legislature of West Virginia:

Block of stone to be provided; by whom selected; from whence chosen; what to be carved thereon.

To be placed in Washington Monument.

How the expense thereof paid.

1. That W. K. Pendleton he, and he is hereby requested and authorized to provide a suitable and durable block of stone, to be chosen from one of the quarries of this state, upon which he shall have carved the coat of arms of this state, together with such inscription as he shall deem suitable and appropriate, and that he cause the same to be conveyed to the city of Washington, to be placed in the Washington monument.

2. That upon the certificate of the said W. K. Pendleton, the auditor be required to draw his warrant upon the treasurer to pay all the expenses incurred under this act, and that said expenses be paid out of any money not otherwise appropriated.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LVI.

AN ACT authorizing the construction of a bridge or viaduct across West Fork river, in Marion county.

[Passed March 5, 1881.]

Be it enacted by the Legislature of West Virginia:

1. James J. Burns and M. I. Richardson, and their assigns, and such persons as may become associated with them for the purpose contemplated by this act, are hereby authorized and empowered to construct a bridge or viaduct across the West Fork river, in Marion county, suitable and proper for the transportation of coals and other minerals, at any point between the mouth of Booth's creek and the confluence of said river with the Tygart's Valley river, and they are hereby given the exclusive right to occupy and use such bridge or viaduct; *Provided*, That the same shall be so constructed as in no wise to hinder or obstruct the free navigation of said West Fork river.

Construction of bridge authorized.

Where to be erected.

Exclusive right to the use thereof.

Not to be hindrance or obstruction to navigation of West Fork river.

[Approved March 11, 1881.]

## NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement

## CHAPTER LVII.

AN ACT to amend and re-enact chapter sixty-four of the acts of one thousand eight hundred and seventy-nine.

[Passed March 3, 1881.]

Be it enacted by the Legislature of West Virginia:

That chapter sixty-four of the acts of one thousand eight hundred and seventy-nine be amended and re-enacted so as to read as follows:

## CHAPTER LXIV.

1. Whenever it shall appear to the satisfaction of the auditor that the sureties of a defaulting sheriff will be compelled to pay the amount of indebtedness of such sheriff, he may, with the advice and consent of the attorney-general, settle with such sureties, by receiving the amount of principal, with interest thereon at the rate of six per centum per annum.

When sureties of defaulting sheriffs compelled to pay indebtedness of such sheriff, auditor authorized to receive 6 per cent. as the interest thereon.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

### CHAPTER LVIII.

AN ACT making legal and valid bonds issued by the county court of Berkeley county, on December thirty-first, one thousand eight hundred and eighty, executed by C. U. Thornburg, president of the county court of said county, and attested by C. W. Doll, clerk of said court.

[Passed March 8, 1881]

Bonds authorized to be issued.

WHEREAS, The county court of Berkeley county, at the August term, one thousand eight hundred and eighty, in pursuance of the authority vested in it by an act of the legislature of West Virginia, approved March eight, one thousand eight hundred and seventy-nine, and entitled "an act to authorize the county of Berkeley to fund at a lower rate of interest, one hundred and five thousand dollars of its bonds issued on the second day of January, one thousand eight hundred and seventy-one," did authorize bonds as therein provided for, to be issued, and directed the same to be executed by the president of the county court affixing his signature, as president, to the same, and to be attested by the signature of the clerk of said court, with the seal of the court annexed thereto; and,

How signed and attested.

WHEREAS, Said bonds were so issued on the thirty-first day of December, one thousand eight hundred and eighty, signed by C. U. Thornburg, as president, and attested by the signature of C. W. Doll, as clerk of said court; and,

WHEREAS, A doubt exists as to the authority of the said C. U. Thornburg, president of said county court, to affix his signature as president to the same, and of C. W. Doll, as clerk of said court, to attest the same by his signature, with the seal of the court annexed thereto, on account of the adoption of the constitutional amendment; therefore, Be it enacted by the Legislature of West Virginia:

Execution of certain bonds issued by the president and clerk of the county court of Berkeley county made legal and valid.

That the execution of said bonds by C. U. Thornburg, president of the county court, by affixing his signature as president to the same, and the attesting of the same by C. W. Doll, clerk of the county court of Berkeley county, with the seal of the court annexed thereto, is hereby ratified, approved, confirmed and made legal and valid.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LIX.

AN ACT to authorize the regents of the West Virginia Institution for the Deaf, Dumb and Blind, at Romney, to purchase about fourteen acres of land adjacent to the lands on which said institution is located, and known as the Heiskell lot, at a price not exceeding two thousand dollars.

[Passed March 8, 1881.]

Be it enacted by the Legislature of West Virginia :

That the regents of the West Virginia Institution for the Deaf, Dumb and Blind, at Romney, be and they are hereby authorized to purchase about fourteen acres of land, known as the Heiskell lot, adjacent to the lands on which said institution is located. The price to be paid for said lot shall not exceed the sum of two thousand dollars, and shall be paid out of moneys now in the hands of the principal of said institution, so that the same shall in no manner be made payable out of the state treasury.

Board of regents authorized to purchase the Heiskell lot.

Price not to exceed \$2,000.00. How to be paid.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LX.

AN ACT to establish a state board of health, and regulating the practice of medicine and surgery.

[Passed March 8, 1881.]

Be it enacted by the Legislature of West Virginia:

1. The governor shall appoint two physicians from each congressional district, who shall be graduates of respectable medical colleges, and of not less than twelve years continuous practice in their profession, and have distinguished themselves by devotion to the study of medicine and the allied sciences, who shall constitute the state board of health. The terms of office of the persons so appointed shall be so arranged that the terms of two of them shall expire at the end of every second year. Vacancies in the board shall be filled by re-appointment, or otherwise, by the same appointing power.

State board of health; how appointed. Required qualification.

Term of office.

Vacancies; how filled.

**Oath of office.**

2. The board so appointed shall take the oath of office prescribed by the constitution for other state officers, and receive from the secretary of state certificates of their appointment.

**First meeting**  
When held.  
Place of meet-  
ing; how deter-  
mined.  
**How organized.**

3. The board shall meet within twenty days after receiving notice of their appointment, at such time and place as the first named member of the board shall designate; and shall organize by the election of a president and secretary from their own number, who shall occupy such positions until their successors are elected; and they may adopt all necessary rules and regulations for the dispatch of business. The board shall also provide for itself a suitable seal. A majority of the board shall constitute a quorum; and they are authorized to send either the secretary or president, or a special committee of the board, to consult and co-operate with the national board of health, or other sanitary organizations, whenever they may deem it necessary for the public good.

**Rules and regu-  
lations may be  
adopted.**  
**Seal to be  
provided.**  
**Quorum.**

**Co-operation  
with the Nation-  
al Board of  
Health.**

**Secretary to be  
executive officer  
of the board.**  
**His duties.**

4. The secretary shall be the executive officer of the board, shall superintend and perform the work prescribed in this act, and perform such other duties as the board shall direct; shall respond to all communications of the local boards of health, hereinafter provided for, and give such advice as may be deemed necessary; and in case of the prevalence of endemics, epidemics, infectious and contagious diseases, or other unusual sickness, he shall, on the request of the local board of health, visit the locality and adopt such regulations for its suppression as may seem best. He shall annually report to the governor, on or before the first day of January, the investigations, discoveries and recommendations of the board, which shall be printed and distributed as soon as practicable thereafter, in the same manner as other public documents of the state.

**Infectious, con-  
tagious and  
other diseases.**

**Annual report;  
what to contain.**

**How printed.**

**Board of Health  
to take cogni-  
zance of life and  
health of inhab-  
itants of State.  
To make sani-  
tary investiga-  
tions.**

**To investigate  
diseases among  
stock and  
methods of rem-  
edying.**

**Drainage, venti-  
lation, etc., of  
coal mines and  
sewerage, etc.,  
of towns and  
villages.  
To take meas-  
ures to prevent**

5. The board shall take cognizance of the interests of the life and health of the inhabitants of the state, and shall make, or cause to be made, sanitary investigations and inquiries respecting the causes of diseases, especially of endemics, epidemics, and the means of prevention, the sources of mortality, and the effects of localities, employments, habits, and circumstances of life on the public health. They shall also investigate the causes of diseases occurring among the stock or domestic animals in the state, the methods of remedying the same, and shall gather information in respect to those matters and kindred subjects for diffusion among the people. They shall also advise with regard to the location, drainage, water supply, heating and ventilation of coal mines, and the drainage and sewerage of towns and cities. When they may believe there is a probability that any infectious or contagious disease will invade this state, from any other state, it shall

be their duty to take such action, and adopt and enforce such rules, as they may in the exercise of their discretion, deem efficient in preventing the introduction and spread of such disease or diseases. The better to accomplish such objects, the board are empowered and directed to establish and strictly maintain quarantine at such places as they may deem proper, and may adopt rules and regulations to obstruct and prevent the introduction or spread of infectious or contagious diseases, to or within the state. They may enforce inspections of persons and articles of baggage, or other goods of whatsoever character, as well as the purification of the same; and companies or individuals operating or controlling railroads, steamboats, coaches, public conveyances, and steamers plying the Ohio river, or its tributaries in this state, shall obey the rules and regulations when made and published by the state board of health, and any owner or owners, person or persons, having charge of any railway train, passenger coach, steamboat, or public or private conveyance, who shall refuse to obey such rules and regulations when made and published, shall be held to have committed a misdemeanor, and for each offense shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, to be confined in the county jail not less than fifteen days, nor more than two months, or be either so fined or imprisoned, or both, in the discretion of the jury trying the case, to be recovered in any court of competent criminal or penal jurisdiction.

the invasion of this state by infectious or contagious diseases. May adopt and enforce rules for the prevention thereof.

May establish and maintain quarantine.

May enforce inspections of persons and articles of goods, and purify the same.

Railroads, steamboats, etc., to obey rules and regulations prescribed by board.

Penalty for refusal to obey rules established by board.

How recovered.

6. It shall be the duty of the state board of health, with the consent of the county court, to appoint three intelligent and discreet persons, (one of whom, at least, shall be a legally qualified practicing physician,) citizens residing in each county of this state, who shall constitute a local board of health, for the respective counties in which they reside; and such persons, as members of the local board, shall hold their office for the term of two years from the date of their appointment; and such local board are empowered, and it shall be their duty, to inaugurate and execute and require the heads of families to execute such sanitary regulations, as the local board may consider necessary to prevent the outbreak and spread of cholera, smallpox, scarlet fever, diphtheria, and other endemic, infectious and contagious diseases; and they are empowered to go upon and inspect any premises which they may believe are in an unclean or infectious condition. and the said local boards are authorized to enforce the rules and regulations of the state board of health. And it shall be the duty of physicians practicing in any county, in which a local board is organized to report promptly, all or any of the above named character of disease, under their special treatment to such local board; and such local board shall make report of the same to the state board of health, at least once in every three

Local board of health; how appointed.

Term of office.

Power of local board.

Duty of practicing physicians to report to local boards; as to what. Local board to report to state board; when and what to report.



Provision for the local boards shall not apply to certain cities and towns. Certain local boards to be auxiliary to state board.

months; first, of the character of the infectious, contagious, endemic or epidemic disease prevailing in their county; second, the number of persons reported as infected with such disease; third, the action taken by such local board to arrest the progress of such prevalent disease, and the visible effects of such action. The provisions for local boards of health, shall not apply to cities and towns having boards of health, but where such local boards of health are already established in cities and towns, they shall be auxiliary to, and act in harmony with the state board of health.

In counties bordering on Ohio river and tributaries and on the line between Kentucky and West Virginia, local boards of health empowered to declare quarantine, District number of state board to be notified. State board to ascertain necessity of such quarantine.

7. In the counties bordering on the Ohio river and its tributaries, and on the state line separating West Virginia from the state of Kentucky, the local boards of health are empowered to declare quarantine in said county, or counties, or in any particular place or places therein, against the introduction of any contagious or infectious diseases prevailing in any other state or county; *Provided*, That as soon as such quarantine is established, the local board declaring the same through its presiding or chief officer, shall, in writing, notify the district members of the state board of health of such quarantine and the extent thereof, and thereupon the state board of health, in the exercise of its supervising power over local boards, shall, as early as practicable, ascertain the necessity of such quarantine, and shall either approve of and enforce the said quarantine or declare the same raised.

State board of health, etc., empowered to prevent the landing of any steamboat, etc., infected with contagious disease, etc.

8. The state board of health, and its agents, employes, or the local boards of health, acting under the direction and regulations of the state board, when they have reasonable grounds to believe that any packet or other steamboat, barge or other water craft navigating the Ohio river or its tributaries, is infected with any infectious or contagious disease, are empowered to prevent the landing of such craft at any point on the West Virginia shore, or elsewhere within the state; and they are also empowered, when they have reasonable grounds to believe that any such railway train, coach or other vehicle contains persons, or goods of whatsoever character infected with contagious matter, to detain at any station or point on such railway or road such train, coach or vehicle for a time sufficient to disinfect and purify the same; *Provided*, Quarantine has been established at such station or place by action of such boards; and any railway conductor, or person in charge of the same who shall wilfully avoid or prevent the inspection, disinfection, and purification of the conveyances above named in his control, shall be guilty of a misdemeanor and liable to the penalty hereinbefore mentioned, to be recovered in the circuit court of any county where the offense has been committed.

The state board may also detain at any station any railway train, coach, or other vehicle containing infected persons or goods, etc. Quarantine must have been established. Penalty for preventing the inspection, etc., of such conveyances.

How recovered.

9. Any person practicing medicine, in any of its departments, shall possess the qualifications required by this act, viz: If a graduate in medicine, he shall present a diploma to those members of the state board of health appointed for his congressional district for verification as to its genuineness. If the diploma is found to be genuine and issued by a reputable medical college, and recognized as such an institution, and if the person named therein be the person claiming and presenting the same, the said two members of the state board of health shall issue a certificate to that effect; and such diploma and certificate shall be conclusive as to the right of the lawful holders of the same to practice medicine in the state of West Virginia. If not a graduate of such medical college as above designated, every person practicing medicine in this state shall present himself before the said two members of the state board of health in his congressional district, together with the presiding medical officer of the local board of health of the county in which the respective district state boards of health may hold their examinations, and submit himself to such examination as the said board shall require; and if the examination be satisfactory, they shall issue a certificate in accordance with the facts, and the lawful holder of such certificate shall be entitled to all the rights and privileges herein mentioned; except that physicians, who have been engaged in the continuous practice of medicine in this state for more than ten years at the date of the passage of this act, shall, in lieu of a diploma or examination by the members of the state board of health, present to the said board an affidavit as to the number of years they have been engaged in the practice of medicine, and the said board shall issue its certificate to such physicians without requiring an examination. The members of the state board of health in each congressional district shall give not less than twenty days' public notice of the time and place of their meetings, in order to accommodate applicants for certificates.

Requisite qualifications for practicing medicine.

By whom certificate to be issued. Certificate to be conclusive.

Persons not graduates; how examined.

If examination satisfactory, certificate to be issued. Effect of certificate.

Exception as to physicians in practice more than ten years.

Such practitioners to furnish affidavit of the number of years of their practice. Certificate to be issued by board to such practitioners.

Notice required.

10. Every person holding a certificate from the state board of health, shall have it recorded in a book kept for that purpose by the secretary of the said state board of health, and a record of the same shall be endorsed upon said certificate, with the seal of the state board of health, and signed by the president and secretary of the same.

Certificate granted by state board to be recorded by secretary of state board.

11. Each candidate, on presenting himself for examination, shall be possessed of a good moral character, temperate habits, and shall pay a fee of ten dollars, which shall be returned to him if a certificate be refused. In case an applicant for a certificate fails to pass a satisfactory examination, he may, within nine months thereafter, appear again before the board in his congressional district for a second examination; and if he then fails to

Candidates for examination must be of good moral character. Fee to be paid. Fee to be returned if certificate be not granted. Second examination. Appeal to state board.

Fee in such case.

pass a satisfactory examination, he may appeal from the decision of the board in his congressional district to the state board, which, at its next meeting, shall examine such applicant, and if the examination prove satisfactory, the state board shall grant him a certificate upon the payment of fifteen dollars; but if the state board refuse such applicant a certificate, the examination shall be final; *Provided*, That if any person shall fail to pass a satisfactory examination before the board in his congressional district within four months after this act takes effect, he may appeal at once to the state board, which board, within thirty days after such appeal is made, shall examine the applicant, and should the examination prove satisfactory, the said board shall grant such applicant a certificate upon the payment of fifteen dollars; but such examination, if the applicant be refused a certificate, shall be final.

Examination may be in whole or in part in writing. What to embrace.

12. Examinations may be in whole or in part in writing, and shall be of an elementary and practical character, and shall embrace the general subjects of anatomy, physiology, chemistry, materia medica, pathology, pathological anatomy, surgery, and obstetrics, but sufficiently strict to test the qualifications of the candidate as a practitioner of medicine, surgery and obstetrics. The provisions of this act shall not apply to females practicing midwifery.

Not to apply to females practicing midwifery.

Who regarded as practicing medicine. To apply to apothecaries, etc., who prescribe. Not to apply; to officers of United States army, naval and marine service.

13. Any person shall be regarded as practicing medicine, within the meaning of this act, who shall profess publicly to be a physician, and to prescribe for the sick or who shall append to his name the letters "M. D." This act shall also apply to apothecaries and pharmacists, who prescribe for the sick. This act shall not apply to commissioned officers of the United States army and navy, and marine hospital service.

Itinerant physicians.

14. Any itinerant physician who shall practice, or offer to practice medicine within this state, or who shall, by writing or printing, or any other method, publicly profess to cure or treat diseases, injuries or deformities, shall pay to the state board of health a special tax of fifty dollars, for each and every month and fraction thereof, he shall so practice.

Special tax for.

Penalty for practicing without complying with provisions of this act.

15. Any person practicing medicine, surgery, or obstetrics in this state, without complying with the provisions of this act, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days, nor more than one year, or by both such fine and imprisonment, for each and every offense; and any person filing or attempting to file as his own, the diploma or certificate of another, or a forged affidavit of identification, shall be guilty of a felony, and upon con-

Filing fraudulent certificate or forged affidavit, a felony.

viction, shall be subject to such fine and imprisonment as are made and provided by the statutes of this state for the crime of forgery. Penalty for.

16. The secretary of the board of health shall receive a salary, which shall be fixed by the board; he shall also receive his traveling and other necessary expenses incurred in the performance of his official duties. The other members of the board shall receive no compensation other than traveling and other necessary expenses while employed on business of the board. The president and secretary of the board shall certify all bills ordered to be paid by the board. Such bills shall, on the approval of the governor, and warrant of the auditor, be paid by the state treasurer. Salary of secretary of board of health. Traveling expenses. Other members of board to receive no other compensation than traveling expenses. Bills to be approved by president and secretary of board. How paid.

17. All sums of money received by the state board of health, in payment for certificates of authority to practice medicine, and all fines and special taxes collected through and by reason of this act, shall be paid into the state treasury. All money received by State board of health, and all fines and special taxes collected, to be paid into the State treasury.

18. Of the moneys paid into the treasury of the state under the provisions of this chapter, the sum of one thousand dollars is hereby appropriated to pay the salary of the secretary and to meet all the contingent expenses of the officers of the board of every kind and nature whatsoever; and should the amount thus paid into the treasury be less than one thousand dollars, the sum so paid in, is hereby appropriated for the purpose aforesaid. Appropriation to pay salary of secretary of board and contingent expenses of officers.

19. All acts, or parts of acts, in conflict with this act are hereby repealed. Acts repealed.

[Approved March 11, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. Commencement

CHAPTER LXI.

AN ACT making an appropriation to pay J. W. Hobbs & Co. balance due them for stone furnished the penitentiary.

[Passed March 9, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That the sum of four hundred and thirty-two dollars and fifty cents be, and the same is hereby appropriated out of any money in the treasury, not otherwise appro- Appropriation to pay Hobbs & Co.

printed, to pay J. W. Hobbs & Co. for balance due them for stone furnished the penitentiary.

Auditor directed to draw warrant for amount

2. The auditor is hereby directed to draw his warrant on the treasurer for the amount, when appropriated, in favor of the said J. W. Hobbs & Co.

[Approved March 11, 1881].

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER LXII.

AN ACT to authorize judges, jurors and officers of courts to act in certain cases.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

Judges, sheriffs and other officers authorized act in certain cases.

1. No judge of any court, and no sheriff or other officer of a court, shall be disqualified from performing his official duties with respect to any cause by reason of the fact that he is a citizen and a taxpayer of a county, district, school district, or municipal corporation which is interested in, or a party to such cause.

No person incompetent as a juror in certain cases.

2. In any suit or proceeding in which a county, district, school district, or municipal corporation is interested, or is a party, no person shall be incompetent as a juror because he is an inhabitant or a taxpayer of such county, district, school district, or municipal corporation; *Provided*, however, that in any case where a municipal corporation is interested, or is a party, the court upon motion of either party to the suit, made either on the first day of the term of the court, or at any other time, not less than five days before the day set for the trial, may order jurors to be summoned, none of whom are citizens or taxpayers of such municipal corporation; and if it be under circumstances requiring the issuing of a *venire facias*, the officers charged with the duty of drawing the names from the box shall draw the number required, exclusive of those who are known to be citizens or taxpayers of such municipal corporation. Any court of limited jurisdiction heretofore established, or that may be hereafter established within any incorporated city, town or village, shall have power to require the summoning and attendance of jurors from the county, who are not citizens of the municipal corporation; either the sheriff of the county or the officer of such court who is authorized to execute its writs in other cases, may summon such jurors.

Proviso as to municipal corporations; when jurors may be summoned in such cases who are not taxpayers or citizens of such corporation.

In cases requiring issuing of *venire facias*; how drawn.

Powers of courts of limited jurisdiction to require summoning, etc., of jurors who are not citizens of corporation. Who may summon such jurors

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. Commencement

CHAPTER LXIII.

AN ACT to confer additional rights, powers and privileges on the Coal River Railroad Company.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the maximum rate of charges for the transportation of passengers and freights by the Coal River Railroad Company shall be such as is prescribed in the acts of one thousand eight hundred and seventy-two and three, chapter two hundred and twenty-seven, passed December twenty-seven, one thousand eight hundred and seventy-three. Maximum rate of charges by company.

2. That the said railroad company may construct a railroad from the headwaters of Big Coal river, in Raleigh county, to New river, and from thence to the state line in Monroe county. Also, from Madison, Boone county, to Mud river, in Lincoln county; thence on by the way of Hamlin, in Lincoln county, to the Ohio river, at or near the mouth of the Guyandotte river, in Cabell county. Construction and route of road.

3. That the eighth section of chapter fifteen, of the acts of one thousand eight hundred and seventy-two, passed February ten, one thousand eight hundred and seventy-two, be and the same is hereby repealed. Section eight, chapter fifteen, Acts 1872, repealed.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. Commencement

CHAPTER LXIV.

AN ACT in relation to publications in newspapers.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

1. Any publication authorized or required by any law of this state, or by the provisions of any deed of trust, to be made not more than once a week in any newspaper, may be published in a newspaper issued on any day of the week. Publications authorized to be made once a week, may be made in newspaper published on any day.

[Approved March 12, 1881.]

**Commencement** [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]  
 The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LXV.

AN ACT to amend and re-enact section seven of chapter eighty of the acts of one thousand eight hundred and sixty-seven, entitled "an act to provide free schools for the town of Moundsville."

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

Acts 1867 amended.

1. That section seven of chapter eighty of the acts of one thousand eight hundred and sixty-seven, be amended and re-enacted so as to read as follows :

\* Board of education to determine amount of money necessary to continue schools not less than six months, etc.; when.

Amount of assessment limited. How levied and collected.

Commission of collecting officer

7. It shall be the duty of the board of education to determine, at their annual meeting in the month of July, as near as practicable, the amount of money necessary, in addition to all other available funds, to continue the schools of the district for a term not less than six, nor more than nine school months, and they shall cause such amount to be assessed on all the taxable property of the district, not exceeding forty cents upon the one hundred dollars valuation thereof, and the same shall be levied and collected by the same officers and in the same manner as county levies are made and collected, and shall be paid over to the sheriff of Marshall county, under the conditions prescribed in the general school law as modified in this act. The collecting officer for collecting and paying over the taxes to be assessed by said board of education, shall be entitled to receive a commission of three per cent. upon the amount collected and no more.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LXVI.

AN ACT making an appropriation to John Berger and others.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

Appropriation to repay John Berger and

1. That the sum of one hundred and eighty-five dollars and eighty-three cents, is hereby appropriated out of any

money in the treasury not otherwise appropriated, to repay to William W. Miller, William A. Schwertfeger, John Berger, Charles B. Reed and Byron Baguley, the amount paid by them in satisfaction of a judgment obtained against them by Benjamin E. Wallace, for damages occasioned by the firing of a Gatling gun by said Miller, Schwertfeger, Berger, Reed and Baguley, while acting as volunteer militia of this state under orders of their superior officers.

others amount paid by them for the privilege of firing one Gatling gun.

2. The auditor is hereby directed to draw his warrant on the treasurer in favor of the said Miller, Schwertfeger, Berger, Reed and Baguley, for the sum of one hundred and eighty-five dollars and eighty-three cents above appropriated.

Auditor directed to pay.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement

CHAPTER LXVII.

AN ACT to amend the charter of the city of Charleston, and to change the boundaries of said city.

[Passed March 10, 1881 ]

Be it enacted by the Legislature of West Virginia :

1. That sections one, twenty, twenty-seven, thirty-three and thirty-four of chapter thirty-nine of acts of one thousand eight hundred and seventy-five be amended so as to read as follows :

Acts 1875 amended.

1. That the corporate limits of the city of Charleston shall be as follows, to-wit: Beginning at the Kanawha river at low water mark, on the line dividing the estate formerly owned by Bradford Noyes deceased, from the lands next above the same, and running thence with said dividing line to the base of the hill on the upper side of the Piedmont road or street ; thence by a continuation of said dividing line one hundred and fifty feet ; thence down toward Elk river by a line one hundred and fifty feet above said road or street to the point of intersection with the lower line of Broad street extended ; thence with the line so extended to the upper side of said road or street ; thence down said road or street and on the upper side thereof at the base of the hill to Capitol street, at the end thereof ; thence along the base of the hill and on the upper side of the Elk river road to the lower lines of the Charleston brewery ; thence with said line to Elk river at low

Boundaries of corporate limits specified.



water mark; thence down Elk river at low water mark to its mouth at Kanawha river; thence up Kanawha river at low water mark to the place of beginning.

Record to be kept by council; what to contain.

Proceedings; when corrected, etc., and signed.

Ayes and noes; when taken and where entered. Presiding officer may vote. What vote necessary to carry a measure.

Sergeant to collect city taxes, etc.

His power to distrain for and enforce collection of taxes.

From what time to take nothing but money for taxes, etc.

His bond; amount of.

Not to collect fines or control police.

Appointment of marshal; to be chief of police and collect fines. Duties and compensation; how determined.

Sergeant to collect taxes, levies, etc., and pay over the same; when.

To pay interest on any deficiency.

No deduction for taxes unless delinquent list be made; when.

Oath to be attached to such list.

20. The council shall cause to be kept in a well-bound book an accurate record of all its proceedings, by-laws, acts and orders, and which shall be fully indexed and open to the inspection of the citizens of the city. The proceedings of each meeting shall be read and corrected at the next succeeding regular meeting, and signed by the person presiding at the time of said reading. Upon the request of any member, the ayes and noes shall be taken, and the vote so taken entered upon the journal. The presiding officer may vote as a member of the council, and a majority of all the votes cast shall be necessary to carry the proposed measure.

27. The sergeant shall have power to collect the city taxes, levies, wharfage, licenses and all other claims due the city placed in his hands by the council for collection. He may distrain and sell for taxes, and in all respects have the same power to enforce the collection thereof as the sheriff has to enforce the payment of state taxes, after sixty days from the time the assessors' books are placed in his hands for collection. He shall take nothing but money for taxes he has to collect, nor for any other collection without the direction of the council. He shall give bond in such amount as the council may require, but in no case shall his said bond be for a less sum than twenty thousand dollars. He shall not collect the fines imposed by the mayor, nor shall he have any control of the police, but the council may appoint a marshal, who shall be chief of police, who shall collect said fines, and whose duties and compensation may be determined by said council.

33. It shall be the duty of the sergeant to collect all such taxes, levies and other claims due the city that may be placed in his hands for collection by the council, and shall pay over said taxes as follows: One-half the levy on or before the first day of March, and the residue on the first day of September next succeeding the date when said taxes were placed in his hands for collection; and he shall pay interest at the rate of ten per cent. per annum on any deficiency on said payments from the day he shall so fail to pay as required. He shall be charged with all such collections, and no deductions shall be allowed him for taxes unless he make a delinquent list within one year from the time he receives the assessors' books for collection, and return the said list to the council, with an oath thereto attached, stating that the said list is correct and just; that he has received no part of the taxes mentioned in said list so returned, and that he has used due diligence to find property liable to distress for said taxes, and has found none, and that he could not collect the same. The

same person shall not, after the first election had under this act, be elected or appointed to the office of sergeant for two successive terms, or parts of terms, nor shall any person who acted as deputy be elected as successor to such sergeant, nor shall any sergeant act as deputy to his successor; but the sergeant shall have six months after the close of his term in which to close up his collections.

Same person not eligible to office of sergeant for two successive terms. Deputy not eligible as sergeant, nor sergeant as deputy. Time allowed sergeant to close up his collections. All moneys paid to treasurer and received for. How paid out.

34. All moneys belonging to the city shall be paid to the treasurer and be receipted for by him in duplicate, and none of which shall be paid out by him except upon an order of the council signed by the mayor and recorder. The council may fund its indebtedness by issuing bonds of the city, payable within twenty years, bearing no greater rate of interest than six per cent., 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 for by law. Such bonds shall not be sold for less than par, nor exchanged for the evidences of indebtedness of said city except dollar for dollar; and there shall be provided a sinking fund that will discharge the said bonds and interest thereon as the same shall become due; said bonds shall express on their face that they may be paid at any time after five years from their date, at the pleasure of the council, and 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 beyond the amount now allowed by law.

Council authorized to fund the indebtedness; how. Debt not to be increased, except, etc. Bonds to be sold only at par, etc. Sinking fund. When bonds paid. Record to be kept. Proviso as to bonded indebtedness.

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

Acts repealed.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LXVIII.

AN ACT to create and establish the independent school district of Fetterman out of sub-district number one of Fetterman school district, in Taylor county.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That in case a majority of the votes cast at the election hereinafter provided for, be in favor thereof, the following described territory in the county of Taylor, independent school district.

Sub-district No. 1 of Fetterman district made an independent school district.

Boundaries thereof.

cluding the town of Fetterman, shall, after the result of such election is ascertained and declared, be an independent school district, and be known as the independent school district of Fetterman, to-wit: All the town of Fetterman and the territory adjacent thereto, designated and known as sub-district number one of Fetterman school district in Taylor county, as now organized and bounded, and described as follows: Beginning at a point on the Tygart's Valley river, opposite the mouth of Bartlett creek, a corner to the line between Fetterman and Grafton districts, and thence northerly with the line between Fetterman and Grafton districts to the Northwestern turnpike; thence easterly with said turnpike and the line between said Fetterman and Grafton districts to the eastern corner of the Catholic cemetery, where the line between the lands of the heirs of John K. Knotts, deceased, and Sarah B. Fetterman, deceased, crosses said turnpike; thence northerly with the line between the lands of said Knotts and Fetterman heirs, to the eastern corner of George Keener's land; thence westerly and northerly with the lines between said George Keener's land and the lands of the heirs of Sarah B. Fetterman, deceased, to the corner of the land of James K. Smith; thence northerly with the line of the lands of said Smith and said Fetterman heirs, to the land of Isaac Evans; thence westerly with the line between the lands of said Isaac Evans and the said Fetterman heirs to James Nuzum's heirs' land; thence westerly with the line between the land of said James Nuzum's heirs and Isaac Evans to the Fetterman and Wick Wire road; thence northerly with the meanders of said Fetterman and Wick Wire road to the southern corner of the land of the heirs of William Brown, deceased; thence northerly with the line between the lands of said William Brown's heirs and the lands of Thornton Malone, to the Tygart's Valley river; and thence up and with the meanders of said river to the place of beginning.

Question of the establishment of the independent district to be submitted to the voters of Fetterman district.

2. At the next election for county superintendents and other school officers, to be held in pursuance of law, it shall be the duty of the board of education of said Fetterman district in Taylor county, to submit to the voters residing in said Fetterman district the question of the adoption or rejection of the provisions of this act; and all persons residing in said Fetterman district, who are entitled to vote at such elections, and no others, shall be entitled to vote on such question. The election shall be by ballot, and those voting in favor of the establishment of such independent district shall have written or printed on their tickets the words "For independent district;" and those voting against the establishment thereof shall have written or printed on their ballots the words "Against independent district." The election shall be superin-

Election; where and how held.

tended, conducted, and the result thereof ascertained and declared by the same officers superintending and conducting the election for county superintendent and other school officers elected on that day; and all the provisions of the election laws in this state, so far as they are applicable, shall be in force and govern such election, unless herein otherwise provided. At the said election there shall also be elected by the voters residing in said proposed independent school district, a board of education for the same, consisting of a president and two commissioners, who shall be a corporation by the name of the "board of education of the independent school district of Fetterman," and by that name may sue and be sued, plead and be impleaded, purchase and hold so much real estate and personal property as may be necessary for the purposes of this act, and without any transfer or conveyance they shall be deemed the owners of all real and personal property within the territory aforesaid, now held or owned for free school purposes by the board of education of Fetterman district, and they shall have all the powers, perform all the duties and be subject to all the liabilities both of boards of education and trustees. They shall hold their offices for the term of two years, beginning on the first day of July next after their election, and until their successors are elected and qualified according to law; and in the year one thousand eight hundred and eighty-three, and biennially thereafter, a new board shall be elected at the same time and under the same regulations that county superintendents and other school officers are elected; but nothing herein contained shall be construed to prohibit the re-election and eligibility of any member of such board for two or more terms. Vacancies in the board shall be filled for the unexpired term by appointment by the board. The ballots used by the voters residing within said proposed independent school district, shall have written or printed on them the names of the persons voted for members of said board of education.

How superintended and conducted, and result ascertained and declared.

Board of education, consisting of president and two commissioners to be elected. By what name known. Powers and duties of board.

To discharge duties of trustees. Term of office.

Vacancies in board; how filled.

3. The independent school district of Fetterman, herein authorized to be established, shall conform to and be governed by the general school law of this state, except when it is otherwise provided by this act.

To conform to and be governed by general school law.

4. All school moneys, whether belonging to the teachers' or building fund of Fetterman district, which may be unexpended when the provisions of this act take effect, shall be divided between the said Fetterman district and the independent school district of Fetterman, in proportion to the amount of taxable property in each of said districts, after the creation of the said independent school district of Fetterman. The latest available assessment for state and county purposes shall be taken as the basis of such settlement and division. It shall be the duty of the

Settlement to be made with board of education of Fetterman district.

Settlement; when to be made.  
Powers of the board of the independent district.

boards of education of each of said districts, within ninety days after the provisions of this act are adopted, to make the financial settlement provided for in this section. The said board of education of the independent school district of Fetterman shall have power to lay levies in the same manner as provided in the case of boards of education of districts; but if, in the judgment of said board, it will be for the interest of education in such district to do so, they may apply all moneys at their disposal, and which may be levied by them, either entirely to the employment and payment of teachers, and the incidental expenses necessary to carrying on and conducting schools, or entirely to building purposes or both; but there shall be a school taught in said district for at least four months in each year, and the board of education may provide for a longer period without a vote of the people residing therein. But the board of education of the independent district hereby created shall not lay a greater levy than fifty cents on the one hundred dollars valuation of the property for school purposes, nor more than fifty cents on the like valuation for building purposes in any one year.

Four months school required.

Limit as to the annual levy.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER XLIX.

AN ACT to revoke and repeal the certificate of incorporation issued October nineteen, one thousand eight hundred and seventy-four, to "The Livingston University of America."

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia:

Charter revoked and repealed.

The certificate of incorporation of "The Livingston University of America," granted by C. Hedrick, secretary of state, on the nineteenth day of October, one thousand eight hundred and seventy-four, is hereby revoked and repealed.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

CHAPTER LXX.

AN ACT to amend and re-enact section one of chapter one hundred and two of the acts of one thousand eight hundred and seventy-two and three.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That all suits and proceedings that were pending in this state on the thirty-first day of December, one thousand eight hundred and seventy-two, in the name of, or against the supervisors of any county, or in the name of, or for the benefit of any township, and have not been dismissed because such boards were extinct, shall be proceeded in to determination as if such boards were in existence.

Suits pending for or against the board of supervisors, etc. to be proceeded in to determination.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. Commencement

CHAPTER LXXI.

AN ACT in relation to the Cumberland road in this state.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

1. A collector of tolls on the Cumberland road, so far as it lies within this state, may refuse to allow any person, animal or vehicle, to pass on the said road until the lawful toll be paid. If any person, animal or vehicle pass a toll gate on said road, or other proper place for payment, without paying or tendering the toll, such person, or the owner or person in possession of such animal or vehicle, shall be fined not exceeding twenty dollars; and the like penalty shall be incurred, when any person, animal or vehicle subject to toll is passed through any private gate, bars or fence for the purpose of evading the payment of toll. This section shall not apply to persons now having a lawful right to pass on said road without the payment of tolls.

Collector on Cumberland road may refuse to let person, animal or vehicle pass until tolls are paid.

Penalty for passing gate without paying toll.

Exception.

2. It shall be unlawful for any person to put or place, or cause to be put or placed upon the Cumberland road, in this state, any earth, ashes, stones or other obstructions to the travel and use of said road; or to place or leave any vehicle or other thing in such manner as to interfere with the free travel of said road; and it shall be unlawful for any person to remove, injure or deface any wall or stone

Unlawful to put or place any obstruction on road.

Unlawful to remove, etc.

Exception. wall or stone of any bridge, etc. of any bridge, culvert or other part of said road. *Provided*, Nothing herein contained shall be construed to

Penalty.

apply to any person working on said road under directions of proper authority. Any person violating any of the provisions of this section shall be fined not exceeding twenty dollars.

Forfeiture to accrue to the board of public works for use of road.

3. Any forfeiture under the provisions of this act shall be to the board of public works, and shall be applied in the same manner as tolls collected on said roads.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LXXII.

AN ACT to prescribe the duties of clerks of the county courts in counties in which tribunals now exist which have heretofore been established for police and fiscal purposes, under the thirty-fourth section of the eighth article of the constitution of one thousand eight hundred and seventy-two, and providing for appeals from orders made by such clerks.

[Passed March 10, 1881.]

Be it enacted by the Legislature of West Virginia :

Clerks of county courts to perform certain duties in which there exist special tribunals for police and fiscal purposes.

1. In every county in which now exists a tribunal for police and fiscal purposes heretofore established under the thirty-fourth section of the eighth article of the constitution of one thousand eight hundred and seventy-two, the clerk mentioned in the twenty sixth section of the amendment of one thousand eight hundred and eighty to the constitution, shall exercise any powers and discharge any duties conferred on or required of the court or tribunal heretofore established for judicial purposes in such county, or the clerk thereof, before the adoption of such amendment; and any powers and duties now or hereafter conferred on or required of county courts in other counties, or the clerks thereof (except as herein otherwise provided) respecting the recording and preservation of deeds and other papers presented for record, respecting matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators, and the settlement of their accounts, and in all matters relating to apprentices. Such powers and duties may be exercised and discharged as well during the sessions of the circuit court and of the tribunal for police and fiscal purposes in such county as at other times.

Such powers and duties may be exercised and discharged at any time.

2. No jury shall be impaneled before such clerk to settle questions of fact.

No jury to be impaneled.

3. Such clerk shall keep an order book in which shall be entered all orders made by him respecting matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators or apprentices. Any person interested may, within one year after the entering of any such order, appeal therefrom to the circuit court of the county. Upon application being made for such appeal, the said clerk shall enter in his order book an order allowing such appeal, and shall transmit to the clerk of the said circuit court all papers and copies of all orders pertaining to the matter. The circuit court shall hear and determine the matter as though it had been presented to the said circuit court in the first instance, and shall cause a copy of the order embracing its final action therein to be transmitted to the said clerk of the county court, who shall enter the same in his order book. At any time after such appeal is allowed, the said circuit court, or the judge thereof, may make any such order for the protection of the parties interested, or for the protection or preservation of any property involved, as might have been made had the matter been originally presented to the said circuit court.

Clerk to keep order book; what entered therein

Appeal from order of clerk; within what time made. Proceedings on such appeal.

Circuit court may make order for protection of parties or preservation of property.

4. When any act is required to be done by clerks of county courts of other counties on the first days of the terms of the county courts, such clerk of the county court in every county in which such special tribunal for police and fiscal purposes was established as aforesaid, shall perform such act, under the same regulations and penalties, on the days appointed by law for the regular meetings of the tribunal for police and fiscal purposes in his county.

Act required on first day of term of county court to be done on days appointed for regular meetings of tribunal for police and fiscal purposes.

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LXXIII.

AN ACT making appropriations to pay first battalion West Virginia volunteers for services rendered to the state in assisting the civil officers to preserve the peace and in executing the laws in Fayette county in January, one thousand eight hundred and eighty.

[Passed March 11, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That the sum of thirteen hundred and thirty-nine

Appropriation to pay first



battalion of volunteers for services rendered.

dollars and twenty-three cents be and is hereby appropriated out of any money in the treasury not otherwise appropriated to pay the first battalion West Virginia volunteers for services rendered to the state in assisting the civil officers to preserve the peace and execute the law in Fayette county in the month of January, one thousand eight hundred and eighty.

Auditor to draw his warrant for amount in favor of adjutant general; to be distributed; how.

2. That the auditor shall draw his warrant on the treasurer for said sum in favor of the adjutant general, who shall distribute the same in the following manner, and to the following persons, in the sums set opposite their respective names:

*Field and Staff.*

To pay field and staff officers.

J. W. M. Appleton, major, eight days' services .....	\$ 55 52
S. A. Miller, regimental quartermaster, eight days' services.....	35 52
J. W. A. Ford, adjutant, seven days' services.....	31 08
L. W. Carr, surgeon, seven days' services.....	31 08
T. E. Jeffries, sergeant major, seven days' services and clothing	9 87
<b>Total.....</b>	<b>\$163 07</b>

*Kanawha Riflemen.*

To pay officers of Kanawha riflemen.

C. P. Snyder, captain, seven days' services.....	\$ 35 00
W. D. Scott, first lieutenant, seven days' services.....	29 16
Wm. Fox, Jr., second lieutenant, seven days' services..	27 16
W. L. Estell, first sergeant, seven days' services and clothing...	8 88
H. D. Putney, second sergeant, seven days' services and clothing	7 71
J. M. Collins, third sergeant, seven days' services and clothing	7 71
J. M. Wilson, fourth sergeant, seven days' services and clothing	7 71
Geo. Minsker, first corporal, seven days' services and clothing	7 25
Henry Goshorn, second corporal, seven days' services and clothing.....	7 25
Henry Ewing, third corporal, seven days' services and clothing	7 25
James Carr, fourth corporal, seven days' services and clothing	7 25
<b>Total.....</b>	<b>\$152 33</b>

To pay privates of Kanawha riflemen.

To C. P. Snyder, captain Kanawha riflemen, for thirty privates at \$3.03 each for services, and \$3.75 each for clothing, to be distributed by him among the privates of said company.....\$203 40

*Greenbrier Light Infantry Grays.*

To pay officers of Greenbrier company.

J. Alex. Montgomery, captain, seven days' services.....	\$ 35 00
J. C. McPherson, first lieutenant, seven days' services.....	29 16
Frank C. Brown, second lieutenant, seven days' services.....	27 16
E. D. Withrow, first sergeant, seven days' services and clothing	12 38
A. K. Syme, second sergeant, seven days' services and clothing	11 21
J. F. Montgomery, third sergeant, seven days' services and clothing.....	11 21
G. W. Cameron, fourth sergeant, seven days' services and clothing .....	11 21
A. G. McWhorter, fifth sergeant, seven days' services and clothing.....	11 21
S. B. Woodson, sixth sergeant, seven days' services and clothing	11 21
O. L. Austin, first corporal, seven days' services and clothing...	10 75
H. F. Bell, second corporal, seven days' services and clothing	10 75
Z. J. Montgomery, third corporal, seven days' services and clothing .....	10 75

G. F. Argabrite, fourth corporal, seven days' services and clothing ..... 10 75

Total..... \$202 75

To J. Alex. Montgomery, captain Greenbrier light infantry grays, for twenty-four privates at \$3.03 each for services, and \$7.25 each for clothing, to be distributed by him among the privates of said company..... \$246 72

To pay privates of Greenbrier company.

*Supplies and Transportation.*

E. J. Formen.....\$227 30  
 A. E. White..... 17 50  
 D. R. Thomas..... 18 27  
 H. H. Berne..... 4 00  
 J. H. Stratton ..... 15 00  
 F. Reed..... 4 45  
 C. H. Small..... 7 85  
 Ruffner Bros..... 17 40  
 W. Ira Oakes..... 3 00  
 Burlew & Co..... 16 45  
 Bell & Oakes ..... 16 48  
 E. S. Irwin..... 1 50  
 Delaney & Hanna..... 2 50  
 W. A. Bradford & Co ..... 19 25

To pay supplies and transportation.

Total.....\$370 95

Total.....\$1,339 23

[Approved March 12, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

The foregoing act takes effect at the expiration of ninety Commencement days after its passage.

CHAPTER LXXIV.

AN ACT to alter the boundary of Sutton independent school district, in the county of Braxton.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the boundary of Sutton independent school district, in the county of Braxton, be, and the said boundary is hereby so altered as to exclude from the said independent school district the certain territory now included therein, described as follows, to-wit: Beginning at the land known as the Betts' place, being the same on which Jabez Dillon formerly lived, and thence to the turnpike road, crossing the same in Holly district (formerly Franklin township), to the top of the ridge near the Bowling Green; thence to the low gap east of Peter L. Curry's; thence with the road that passes through said gap toward Sutton to a beech, corner to B. Huffman's land, and

Boundary of Sutton independent school district changed

Territory excluded.

Question to be submitted to qualified voters of district.

How elections held, etc.

thence in a straight line to the beginning, so as to exclude H. A. Baxter's land from the said independent district; *Provided*, That the question is first submitted to the qualified voters of the district or districts out of which said independent school district was created. Said election to be held according to the law governing such elections, and the said proposed change of boundary receives a majority of the votes cast at said election.

[Approved March 15, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LXXV.

AN ACT to amend and re-enact section two of an act passed February twenty-eight, one thousand eight hundred and seventy-two, entitled "An act providing for a charter for the Guyandotte and Ohio river railroad and mineral company."

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That section two of an act passed February twenty-eight, one thousand eight hundred and seventy-two, entitled "an act providing for a charter for the Guyandotte and Ohio river railroad and mineral company," be amended and re-enacted so as to read as follows :

Construction and route of road.

May be either main or branch line. May change location.

May connect or consolidate with, or purchase, etc.; other roads, etc.

How such line purchased or consolidated.

2. The said company is hereby authorized to construct a railroad from some point or points on the Virginia state line, to be selected by the corporation, and thence to and along Guyandotte river and the Ohio river to such point above the mouth of Big Sandy river as may be selected by the corporation. The line or lines so located may be either designated as main or branch lines, and the first location shall not limit the right of the corporation at any future time to make other locations within the limits of this section. It shall be lawful for it to connect its main line, or any branch thereof, with any other railroad, or to acquire the ownership or control of the property or franchise of any other railroad company, either by running arrangements, lease, purchase, sale or consolidation, on such terms as the contracting parties may agree upon; and may operate such purchased or consolidated lines, with all and singular the rights, powers, immunities, franchises and privileges of the lines so purchased or con-

solidated. At any regular stockholders' meeting the said company may change its name to such name as the majority shall select; and in case such change of name be made, a certificate to that effect shall, within thirty days thereafter, be filed in the office of the secretary of state. Said company shall be subject to the general railroad law of this state.

How and when name of road may be changed.

Certificate of change; when and where filed.

[Approved March 15, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage. Commencement

## CHAPTER LXXVI.

AN ACT for the relief of Joseph Lockhart.

[Passed March 14, 1881.]

WHEREAS, Joseph Lockhart, a citizen and resident of Hancock county, now confined in the hospital for the insane, at Weston, became violently insane in May last, and was so adjudged upon proper examination; and application was then made to the superintendent of the said hospital, at Weston, for the admission of said Lockhart as a patient; and said application was refused for the reason that there was no room for the further accommodation of insane at that time, nor until the December following; and,

Preambles.

WHEREAS, Thereupon the said Lockhart was committed to the jail of Hancock county, and was so violently and dangerously insane, that he had to be chained and manacled, and a guard employed by the sheriff to attend him at great expense, to-wit: at an expense of \$1.50 per day; and,

WHEREAS, From day to day the said Lockhart became worse, more violent, and in great danger of bodily disease, and it became imperatively necessary for his removal from the confinement of said jail to an asylum for the insane at Dixmont, Allegheny county, Pennsylvania, where he remained from the tenth day of June, one thousand eight hundred and eighty, until the sixth day of December, one thousand eight hundred and eighty, under treatment, before any place could be assigned him by the authorities of said asylum, at Weston, at an expense of two hundred and two dollars and forty-six cents; and as said Lockhart still continues insane and under treatment at Weston, and is a poor man, having a large family to maintain and provide for, and is without any estate, save and except such as may be necessary for the immediate support of his family; therefore,

Be it enacted by the Legislature of West Virginia :

Appropriation to pay cost of maintenance of Joseph Lockhart at hospital for insane in Pennsylvania.

1. That the sum of two hundred and two dollars and forty-six cents be, and is hereby appropriated out of any money in the treasury, not otherwise appropriated, to pay the cost of the maintenance of said Joseph Lockhart, at said hospital for the insane at Dixmont, Pennsylvania, the same to be paid by warrant from the auditor to William McDonald, committee of said Joseph Lockhart.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LXXVII.

AN ACT making an appropriation to pay for copying war records in the adjutant general's office.

[Passed March 14, 1881.]

Preamble.

WHEREAS, A large portion of the war records of the adjutant general's office have, by constant reference, so far faded out as to be almost illegible and practically useless, and they being of the utmost importance to the departments at Washington, and the individual soldier, in the matter of bounty claims, military land allowances, pension claims, and for most purposes for which the original discharges were intended ; therefore,

Be it enacted by the Legislature of West Virginia :

Appropriation to pay for copying war records in adjutant general's office.

1. That the sum of one thousand dollars, or as much thereof as may be necessary, be, and is hereby appropriated, out of any money in the treasury not otherwise appropriated, to be expended in copying valuable war records in the office of the adjutant general ; such copying to be done under direction of, and in such manner and upon such terms as to the expenses thereof as may be prescribed by the board of public works, and the expense of such copying shall be paid from the treasury, upon orders drawn by said board of public works.

Board of public works to direct copying and order payment for same.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LXXVIII.

AN ACT to amend and re-enact the thirty-fifth section of an act of the general assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in the county of Ohio," passed March eleventh, one thousand eight hundred and thirty-six, amended and re-enacted by an act of said general assembly, passed March the fourth, one thousand eight hundred and fifty-four, and further amended and re-enacted by chapter twenty-four of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-one.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

1. That section thirty-five of an act of the general assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in the county of Ohio," passed March eleventh, one thousand eight hundred and thirty-six, amended and re-enacted by an act of the said general assembly, passed March fourth, one thousand eight hundred and fifty-four, and further amended and re-enacted by chapter twenty-four of the acts of the legislature of West Virginia of one thousand eight and seventy-one, be amended and re-enacted, so as to read as follows:

35. The council shall have exclusive authority within said city, to grant or refuse license to the keepers of ordinaries, hotels, inns and taverns, houses of public or private entertainment, boarding houses, public eating houses, coffee houses, places at which spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drinks of a like nature shall be sold, places of public amusement, and boarding stables or stables for keeping and feeding horses, mules and cattle, for a compensation; *Provided, however,* That persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license than the license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses, mules and cattle for compensation. Said council shall further have authority to regulate the manner in which such houses or places shall be kept, and to levy and collect taxes thereon, in addition to any tax which is or shall be payable on the same to the state or the county of Ohio. Said council shall still further have exclusive authority within said city to grant or refuse license to sell spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drink of a like nature, and no person without such license shall

Acts of 1871  
amended.

Authority of  
council to grant  
or refuse license  
as to hotels, etc.

Proviso as to  
hotels, etc.,  
with stabling  
attached.

Further  
authority to  
regulate man-  
ner of keeping  
such houses,  
etc., and to levy  
and collect  
taxes thereon.  
Authority to  
grant or refuse  
license to sell  
spirituous  
liquors, etc.

No person to  
sell without  
license.

Authority to  
assess and  
collect license  
tax.

sell, offer or expose for sale, spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drink of a like nature, within said city; and the council shall also have authority to assess, by ordinance, and collect a license tax from every person licensed under the authority of this section, in addition to other taxes imposed upon him or his property.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES]

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER LXXIX.

AN ACT to amend and re-enact sections one and two of chapter twenty-one of the acts of one thousand eight hundred and seventy-nine, authorizing the levy of a special tax by the council of the city of Wheeling for paving and macadamizing, so as to authorize such tax to be also expended for construction of sewers.

[Passed March 14, 1881 ]

Be it enacted by the Legislature of West Virginia :

Acts 1879  
amended.

1. That sections one and two of chapter twenty-one of the acts of one thousand eight hundred and seventy-nine, authorizing the levy of a special tax by the council of the city of Wheeling, for paving and macadamizing, be and the same are hereby amended and re-enacted so as to read as follows :

Council author-  
ized to levy  
special tax.

1. The council of the city of Wheeling is hereby authorized, in addition to their present authority to levy taxes, to assess, levy and collect an annual tax, for the purposes hereinafter named, on the personal property and real estate in said city subject to taxation by said city, not to exceed, in any year, ten cents on every hundred dollars of the assessed valuation thereof; the money so collected shall be used for the purpose of paving or macadamizing streets or alleys in said city that have not been heretofore paved, or for the construction of sewers in said city, and such money shall, in no case, be used to pay for repairs to old paving or macadamizing, or to old sewers, or for anything except new paving or macadamizing, or new sewers.

Amount  
limited.  
For what pur-  
pose used.

2. The money collected by virtue of this act shall be assessed, levied and collected in addition to the money assessed, levied and collected for other purposes by said city under present laws; and the power to tax hereby conferred is additional to the taxing power heretofore possessed by said city.

Money so collected to be in addition to that assessed, etc., under present laws. Power to tax; an additional power.

[Approved March 16, 1831.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES ]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LXXX.

AN ACT in relation to the paving and macadamizing of streets and alleys in the city of Wheeling, and the constructions of sewers therein, and authorizing the assessment and collection by said city, of the value of the special benefits to real estate from the same.

[Passed March 14, 1831.]

Be it enacted by the Legislature of West Virginia:

1. Whenever the owners of three-fourths of the lots of ground fronting or abutting upon the sides of any street or alley in said city between any two cross streets, shall, by petition in writing, ask the council of the city of Wheeling to have the street or alley paved or macadamized, and a sewer constructed in such street or alley from one of such cross streets to the other, or to have such paving or macadamizing done without the construction of a sewer, or such sewer constructed without such paving or macadamizing, the council shall proceed to consider the petition, and may grant the prayer or request of the petitioner or refuse the same, if in the opinion of the council the work asked for should not be done. If the petition is approved, and the request thereof granted, the council shall cause the city clerk to advertise for bids for the performance of the work, and shall award the contract therefor, to the lowest bidder deemed by them responsible. Before proceeding with the work, the successful bidder shall enter into a written contract with the city, with stipulation and agreements therein approved by the council; and shall give bond payable to the city, in a penalty satisfactory to the council, and conditioned for the faithful performance and fulfillment by such bidder of his contract.

Petition to have street or alley paved, etc., and sewer constructed; who to sign.

Petition may be for paving, etc., without sewer, or for sewer without paving, etc. Council may grant or refuse prayer of petition.

If petition approved, etc.; what then.

Contract and bond of contractor.



Authority to assess the value, of special benefits to real estate, from such improvements; how and when.

2. As soon as the work so ordered is completed the joint standing committee on streets, alleys and grades of said council (a quorum or more thereof may do any act that the committee could do hereunder), or such other persons, not exceeding three, as the council in any case shall appoint for the purpose, shall proceed, without delay, to examine the locality where the work has been performed, as well as each lot, part of a lot, and tract or parcel of land in said city specially benefited thereby, and to determine as near as practicable how much each lot, part of lot, tract or parcel of land aforesaid is specially benefited by the work done, and to assess the amount of such special benefit to each lot, part of a lot, tract or parcel of land so specially benefited; the total amount of such special benefits, however, not to exceed the total cost of such work; if the amount of such special benefits shall be less than the cost of such work, they shall report that fact to the city council, and such deficiency shall be paid out of funds collected under the authority of chapter twenty-one of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-nine, or out of other funds raised by taxation of real and personal property in said city.

Total amount of special benefits not to exceed cost of work. If amount of special benefits be less than cost of work; how deficiency paid.

Report to be made to council. What such report to contain.

3. Said committee or other persons appointed by the council as aforesaid, shall report to the council a schedule of the real estate in their judgment specially benefited by such work, in which shall appear the owners names, as far as known to them; a description of the real estate benefited sufficiently accurate for identification; the valuation thereof and the amount assessed as special benefits; which schedule shall be filed in the office of the city clerk as soon as completed; said clerk shall present such schedule to the council at its next meeting after the same is so filed, and the council may increase or diminish the amount assessed for benefits, upon any or all of such real estate, and correct the said schedule in any respect it may deem it erroneous. Whenever the council shall have approved said schedule, or amended and approved same as amended, its decision shall be final, and the clerk of the city shall deliver to the collector of said city, a copy of such schedule as approved by the council, certified by him to be correct, and shall charge said collector, upon the books of the city, with the gross amount of such benefits as shown by said schedule as approved.

When schedule filed; when Clerk to present schedule to council; when Council may correct the same.

When approved; decision final.

Copy of schedule to be delivered by clerk to collector. Collector charged with amount of such benefits.

Lien for such apportionment and interest.

4. There shall be a lien upon the real estate assessed for benefits under this act from the date of the making by the city of the contract for the work, for the amount of such assessment thereon, and any interest that may accrue thereon; and if the owner of any of the real estate so assessed shall fail or neglect to pay to said collector the amount of the assessment upon his property within sixty

Failure, etc., of owner to pay assessment within sixty

days after the said schedule has been placed in said collector's hands for collection, his assessment shall bear interest from the time such schedule was placed in said collector's hands, at the rate of ten per centum per annum, and such collector shall have the same power and authority to collect such amounts so assessed for special benefits as the sheriffs in this state now have by law for the collection of state and county taxes. The city may enforce said lien, however, if it so desires by a suit in equity in its name in any court of record in Ohio county, and in such suit the land incumbered by such lien may be sold and the lien and costs satisfied out of the proceeds of sale.

days; what then. Assessment to bear interest

Power of collector to collect amounts assessed.

How city may enforce lien.

5. If the owner of any real estate so assessed for special benefits shall, on or before the date the schedule aforesaid is approved by the council, make a written application to the council to be allowed to pay his assessment by installments, and to have time for the payment thereof beyond the time that the collector would allow him, the council may, in its discretion, grant such applicant his request, provided the payment of such assessment, and interest thereon at the rate aforesaid, is amply and fully secured to the city by such applicant in a manner satisfactory to the council; and such applicant's assessment shall not be collected by the collector, if his application is granted and his assessment so secured.

When and how owner of real estate, so assessed, allowed to pay assessment by instalments, and have time extended.

6. It shall be the duty of the council whenever any street or alley shall be paved or macadamized, or any sewer constructed under the provisions of this act, to pave or macadamize all intersections of the streets and alleys so paved or macadamized with cross streets and alleys; and to construct sewers through such intersections where a sewer has been constructed hereunder.

Duty of council to have paved, etc., all intersections, etc.

Also, to construct sewers through such intersections.

7. Nothing herein shall be construed as depriving the said city council of the right to cause any of the streets or alleys of the city to be paved or macadamized, or sewers constructed therein, either with or without a petition therefor, and to pay for same out of the funds of said city, the same as though this act had never passed.

Council may pave, etc., any street or alley, and construct sewers with or without petition therefor. How paid for.

8. All acts and parts of acts in as far as they are in conflict with this act are hereby repealed.

Conflicting acts repealed.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement

CHAPTER LXXXI.

AN ACT to amend and re-enact section five of an act passed February twenty-nine, one thousand eight hundred and sixty-eight, entitled "an act amending and re-enacting the charter of the town of Martinsburg."

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

Acts 1863 amended.

1. That section five of an act passed February twenty-nine, one thousand eight hundred and sixty-eight, entitled "an act amending and re-enacting the charter of the town of Martinsburg," be amended and re-enacted so as to read as follows :

Annual levy; for what purposes.

5. For the purpose of improving the streets, maintaining a sufficient police, providing for furnishing the said town with water, lighting the streets and supplying the town with gas, and for the erecting of any buildings, water works, gas works, or any improvement of a general nature, and for carrying out generally the powers conferred by this act, and by chapter forty-seven of the code of West Virginia, the said council may levy and collect annually a tax on the real and personal property within the said town not exempt from taxation by the laws of this State. The said council shall cause to be made up annually, and entered upon its journal, an accurate estimate of all sums which are or may become lawfully chargeable against said corporation, and which ought to be paid within one year, and it shall order a levy of so much as may, in its opinion, be necessary to pay the same. The levy so ordered shall be upon all male persons residents of said town over the age of twenty-one years, dogs and all real and personal property therein, subject to state and county taxes. *Provided*, The taxes so levied shall not exceed seventy-five cents on every one hundred dollars of value of the real and personal property and one dollar per head on each taxable person.

Annual estimate to be made and entered in journal.

Whenever anything for which a state license is required is to be done in said town, the said council may require a license therefor, and may impose a tax thereon for the use of said corporation, and may in any such case require from the person so licensed, bond payable to said corporation, with such sureties, in such penalty and with such conditions as it may deem proper. The said council may require a license of each agency of a foreign insurance company, and of each insurance broker in said town, and may impose an annual tax on every such license, not exceeding twenty dollars, the proceeds of which shall be appropriated and used for the benefit of the fire company now existing in said town, and if said company shall cease to exist, shall

Upon what levy to be made.

upon all male persons residents of said town over the age of twenty-one years, dogs and all real and personal property therein, subject to state and county taxes. *Provided*, The taxes so levied shall not exceed seventy-five cents on every one hundred dollars of value of the real and personal property and one dollar per head on each taxable person.

Limit to levy.

Licenses; when Council may require and impose a tax thereon. May also require bond.

May require licenses of agents of foreign insurance companies, etc Tax thereon.

How proceeds appropriated.

Whenever anything for which a state license is required is to be done in said town, the said council may require a license therefor, and may impose a tax thereon for the use of said corporation, and may in any such case require from the person so licensed, bond payable to said corporation, with such sureties, in such penalty and with such conditions as it may deem proper. The said council may require a license of each agency of a foreign insurance company, and of each insurance broker in said town, and may impose an annual tax on every such license, not exceeding twenty dollars, the proceeds of which shall be appropriated and used for the benefit of the fire company now existing in said town, and if said company shall cease to exist, shall

be used for providing means for extinguishing fires. There shall be a lien on real estate within said town for the corporation taxes assessed thereon, whether assessed in the name of the rightful owner thereof or not, and for all other assessments, fines and penalties lawfully assessed and imposed upon the owner of such real estate by the authorities of said corporation from the time the same is so assessed or imposed, which shall have priority over all other liens, except the liens for taxes due the state, county and school district, and after the expiration of six months from the time they are so assessed, or imposed, the said council may enforce the same by a bill in chancery in the circuit court of Berkeley county in the name of said corporation against the owners of such real estate, or, at the option of said council, in such other manner as it may by ordinance prescribe.

Lien on real estate for taxes, etc.

Priority of such liens.

How payment of taxes may be enforced by council.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas any nays having so directed.

Commencement

## CHAPTER LXXXII.

AN ACT to repeal chapter two hundred and thirty-one of the acts of one thousand eight hundred and seventy-two and three in relation to the Berkeley Springs, in the county of Morgan.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

1 That chapter two hundred and thirty-one of the acts of one thousand eight hundred and seventy-two and three relating to the Berkeley springs, in the county of Morgan, passed December twenty-nine, one thousand eight hundred and seventy-three, be and the same is hereby repealed.

Act repeals .

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.]

Commencement

CHAPTER LXXXIII.

AN ACT for the relief of Evan Hinton, late sheriff of Summers county.

[Passed March 14, 1881.]

Preamble.

WHEREAS, Evan Hinton was sheriff of Summers county for the years of one thousand eight hundred and seventy-one, two, three, four and five, and during his term of office as such sheriff, certain tax bills came into his hands which are still uncollected, and certain orders of release of taxes were allowed by the county court of Summers county for which said Hinton has not received credit; therefore,

Be it enacted by the Legislature of West Virginia :

Auditor directed to credit Evan Hinton with certain uncollected taxes and exonerations.

That the auditor be, and he is hereby directed to credit the judgment in favor of the state against Evan Hinton, late sheriff of Summers county, and his securities, with the amount of uncollected tax bills for the years one thousand eight hundred and seventy-one to one thousand eight hundred and seventy-six, inclusive, now in the hands of said Hinton, amounting to four hundred and eighty dollars; and also with the sum of seventy-nine dollars and ninety-five cents, amount of exonerations of taxes allowed by the county court of Summers county for which said Hinton has not received credit; but before crediting said judgment, said Hinton shall file said tax tickets with the auditor, together with his affidavit stating that no part of said tickets have been collected.

Tax tickets and affidavit to be filed.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

Commencement

The foregoing act takes effect at the expiration of ninety days after its passage.

CHAPTER LXXXIV.

AN ACT concerning the United States Coast and Geodetic Survey in this State.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

Entry upon lands for the purpose of exploring, surveying, etc., by persons employed under act of congress, authorized.

1. That it shall and may be lawful for any person or persons employed under and by virtue of an act of the Congress of the United States, passed February the tenth, one thousand eight hundred and seven, and all acts supplemental thereto, at any time hereafter to enter upon

lands within this state for the purpose of exploring, surveying, triangulating or leveling, or doing any other matter of said act; and to erect any works, stations, buildings or appendages requisite for that purpose, doing no unnecessary injury to private or other property.

Unnecessary damage to property not to done.

2. That in case the person or persons employed under the act of Congress aforesaid, or acts supplemental thereto, cannot agree with the owners or possessors of the land so entered upon and used, as to the amount of damages done thereto by reason of the removal of fences, cutting of trees, or injury to the crop or crops growing on the same, it shall and may be lawful for the said parties, or either of them, to apply to the circuit court of the county to have the same condemned, and such application shall be proceeded in, tried and determined, in all respects, as provided in chapter forty-two of the code of West Virginia.

Proceedings where damages done can not be agreed upon.

How damages ascertained and determined.

3. That if any person or persons shall wilfully injure or deface or remove any signal, monument, or building, or any appendage thereto, erected, used or constructed under and by virtue of the act of congress aforesaid, or any act or acts supplemental thereto, such persons so offending shall severally forfeit and pay the sum of fifty dollars with the costs of suit, to be sued for and recovered by any person who shall first prosecute the same before any justice of the peace of the county where the person so offending may reside, and shall also be liable to pay the amount of damages thereby sustained, to be recovered with costs of suit in an action on the case, in the name and for the use of the United States of America, in any court of competent jurisdiction.

Penalty for injuring, etc., any signal, monument, etc.

How recovered.

Liable for damages; how action for brought.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES],

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencemen

CHAPTER LXXXV.

AN ACT to release and extinguish a judgment rendered in the circuit court of Mercer county, in favor of East river district of Mercer county, against Andrew J. Colo and his sureties.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia:

That the judgment rendered in the circuit court of Mercer county, in favor of the East river district of Mercer

Judgment released and extinguished.

county, against Andrew J. Cole and his securities, for the sum of one hundred and eighty-three dollars and twenty-two cents, be and the same is hereby forever released and extinguished.

[Approved March 16, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES]

**Commencement** The foregoing act takes effect at the expiration of ninety days after its passage.

## CHAPTER LXXXVI.

AN ACT constituting an independent school district of sub-district number five, of Robinson district, Mason county.

[Passed March 11, 1881]

Be it enacted by the Legislature of West Virginia:

Independent school district of Pleasant Flats established.

1. Sub-district number five, of Robinson district, in the county of Mason, is hereby constituted an independent school district by the name of the independent school district of Pleasant Flats, subject however, to the approval of the qualified voters of said Robinson district, as hereinafter provided.

Subject to approval of voters of district.

Board of education, how composed; to be a body corporate.

2. The board of education of said independent school district shall consist of three commissioners, who shall be a body corporate by the name of the board of education of the independent school district of Pleasant Flats, and by that name may sue and be sued, plead and be impleaded; and besides the powers conferred by this act, shall be invested with, and may exercise all the powers and authority of boards of education and trustees under the general school law, unless herein otherwise provided.

Powers vested in.

Certain property to pass to and vest in the independent district.

3. All the property, real and personal, within said sub-district number five, and which is now, or may be hereafter, vested in the board of education of said Robinson district, shall immediately, upon the approval of this act by the voters of said Robinson district, pass to and vest in the board of education of said independent school district of Pleasant Flats.

Election; when held.

4. At the election for district school officers held next after the passage of this act, the ballots used in said Robinson district, shall have written or printed upon them the words, "for independent district," or "against independent district," and the ballots used by the voters residing within the proposed independent school district shall have written or printed on them the names also of three persons to be voted for as members of the board of education of said in-

dependent school district. Said election, and all elections hold under this act, shall be conducted and certified and the result thereof ascertained and declared in the manner prescribed by the general school law for the election of district school officers; and in case the votes cast at said election in favor of said independent school district exceed the number cast against it, a certificate of such result showing also who have been elected members of the board of education of said independent school district, shall be delivered to some one of the persons so elected. But in case the votes cast against said independent district shall equal or exceed the number cast in its favor, then this act and everything herein contained shall be inoperative and void.

Ballots; what to contain.

How result of election ascertained and declared.

5. The term of office of the members of the board of education of said independent school district shall commence on the first day of July next after their election, and shall continue for two years, and until their successors are elected and qualified. They shall be elected biennially, from and by the qualified voters of the said independent school district, on the same day on which elections are, or may be held, for district school officers under the general school law.

Term of office; when to commence.

6. The first meeting of said board of education in each year shall be held on the first Monday in July, at which meeting they shall ascertain the amount of money, in addition to all other funds lawfully applicable, that will be necessary to maintain the primary school or schools within said independent school district for at least six months in the year, and shall levy a tax for such amount upon the property within said district; which tax shall be levied, collected and disbursed in the manner prescribed in the general school law.

Meetings of board; when held.

Schools to be maintained six months in each year.

Levy therefor; how made, etc.

7. In addition to the primary school or schools required by the general school law, the board of education of said independent school district may establish a central high school, in which such branches may be taught as the said board shall prescribe; and the said board of education shall, in case such high school be established, make all needful rules and regulations for its government and for the admission of pupils thereto; and may admit pupils being non-residents of the said independent school district upon the payment of such tuition as the said board shall prescribe.

Board may establish a central high school.

Rules and regulations therefor. Non-resident pupils.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

Commencement



## CHAPTER LXXXVII.

AN ACT making appropriations of public money to pay general charges upon the treasury.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

Appropriations to pay general charges, fiscal year ending September 30, 1881.

1. There shall be and is hereby appropriated out of the state fund for the fiscal year ending September thirty, one thousand eight hundred and eighty-one, the following sums for purposes as follows, viz :

## PENITENTIARY.

Support of convicts and pay of guards.

For the support of convicts and pay of guards at the penitentiary, seven thousand dollars.

Superintendent

For salary of superintendent, one thousand five hundred dollars.

Clerk.

For salary of clerk, one thousand one hundred dollars.

Commissary.

For salary of commissary, one thousand dollars.

Physician.

For salary of physician, five hundred dollars.

Insurance.

For insurance on cell buildings and shops, one thousand five hundred dollars.

How paid.

The foregoing appropriations for the penitentiary are to be drawn from the treasury upon the requisitions of the board of directors, addressed to the auditor, as the same may be required.

## CRIMINAL CHARGES.

Criminal charges.

For criminal charges, fifty-five thousand dollars.

## LUNATICS IN JAILS.

Lunatics in jails.

For the support of lunatics in jails, seventeen thousand dollars.

## NORMAL SCHOOLS.

Support of normal schools.

For the support of the normal school and its several branches, the sum of eight thousand dollars, to be paid according to the provisions of section ninety-six of chapter forty-five of the code as amended and re-enacted at the present session of the legislature.

How paid.

## THE UNIVERSITY.

Expenses of regents.

For expenses of the regents of the West Virginia University, five hundred dollars.

Contingent expenses.

For contingent expenses of the university, three thousand and fifty dollars.

Salaries of teachers.

For salaries of teachers at university, eight thousand five hundred dollars.

Library.

For library at university, three hundred dollars.

How drawn.

The foregoing appropriations for the university to be drawn from the treasury upon orders of the executive committee addressed to the auditor.

## INSTITUTION FOR THE DEAF, DUMB AND BLIND.

Current expenses.

For current expenses for the institution for the deaf, dumb and blind, twenty thousand five hundred dollars.

For the transportation of indigent pupils, five hundred dollars. Transportation.

The foregoing appropriations for the institution for the deaf, dumb and blind to be drawn from the treasury upon the orders of the board of directors, addressed to the auditor. How drawn.

#### HOSPITAL FOR THE INSANE.

For current expenses of the hospital for the insane, sixty-six thousand dollars. Current expenses.

For repairs to hospital and fences, and for roofing engine house and stable, three thousand five hundred dollars. Repairs to hospital, etc.

For furniture for hospital, three thousand five hundred dollars. Furniture.

To purchase and put into position new boiler, one thousand two hundred dollars. New boiler.

To purchase additional gas capacity, one thousand five hundred dollars. Additional gas capacity.

To pay T. C. Bassbor & Co. for gas fixtures, tubs, sinks, etc., eight thousand one hundred and thirty-nine dollars and fifty-two cents. Gas Fixtures.

For library and purchase of instruments, two hundred dollars. Library.

For grading and filling and for ornamenting grounds, two thousand dollars. Grading, etc.

The foregoing appropriations for the hospital for the insane to be drawn from the treasury upon the orders of the board of directors, addressed to the auditor, at the beginning of each quarter. How drawn.

#### CONTINGENT LEGISLATIVE EXPENSES.

For contingent expenses of the senate, six hundred and thirty-six dollars and ninety-three cents. Contingent expenses of Senate.

For contingent expenses of the house of delegates, five hundred dollars. Of House of Delegates.

#### RAILROAD COMMITTEE.

For expense of railroad committee, seven hundred and eighty-five dollars. Railroad committee.

#### PUBLISHING CONSTITUTIONAL AMENDMENTS.

To pay, on account, to the proprietors of each of the newspapers which published the constitutional amendments, by authority of the governor, one hundred and fifty dollars to each—six thousand six hundred and twenty dollars, the money appropriated for this purpose to be drawn from the treasury on orders of the governor. But in cases where payments have heretofore been made on this account the governor shall only pay such amount as, together with former payment, will amount to one hundred and fifty dollars. Publishing constitutional amendments.

#### EXECUTIVE DEPARTMENT.

For civil contingent fund, eight thousand dollars.

Civil contingent fund.

Auditor's office.	For contingent expenses of auditor's office, two thousand dollars.
Treasurer's office.	For contingent expenses of treasurer's office, three hundred dollars.
Secretary of State.	For contingent expenses of secretary of state's office, six hundred dollars.
Attorney General.	For contingent expenses of attorney general, one hundred dollars.
Librarian.	For contingent expenses of state librarian, one hundred dollars.
Adjutant General.	For contingent expenses of adjutant general, two hundred and fifty dollars.
Vault, door auditor's office.	For vault door and case for auditor's office, two hundred and fifty dollars.
How drawn.	The foregoing appropriations to be drawn upon the requisitions or orders of the officers to whom said funds are respectively appropriated.

*Salaries of Clerks.*

Secretary of governor.	To pay salary of private secretary to the governor, one thousand dollars.
Clerk to secretary of state.	To pay salary of clerk to the secretary of state, one thousand dollars.
Clerk to treasurer.	To pay salary of clerk in treasurer's office, one thousand two hundred dollars.
Clerks in auditor's office.	To pay salaries of clerks in auditor's office, five thousand six hundred dollars.
Clerk to attorney general.	To pay salary of clerk in attorney general's office, nine hundred dollars.
Clerk to state superintendent of free schools.	To pay salary of clerk in the office of the state superintendent of free schools, to be paid out of the general school fund, one thousand dollars.

JUDICIAL DEPARTMENT.

Contingent expenses of courts.	For contingent expenses of courts, two thousand dollars.
Printing, etc., supreme court reports.	For printing and binding supreme court reports, three thousand six hundred dollars.

*Overpaid Taxes.*

Refunding overpaid taxes.	For refunding overpayments made at the treasury on account of taxes, licenses, fines and commissions, to be paid upon such form of voucher as may be prescribed by the auditor out of the fund into which the payment was made, two thousand dollars.
How paid.	

*Erroneous Assessments.*

Refunding taxes erroneously assessed.	For refunding taxes erroneously assessed, collected and paid into the treasury, to be paid out of the fund into which the taxes were paid, five hundred dollars.
How paid.	

COUNTY AND DISTRICT TAXES.

Refunding county and district taxes.	For refunding to counties, county and [district] taxes paid into the treasury for the redemption of land, such
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amount is hereby appropriated as will be necessary to refund to the counties entitled thereto the taxes so paid into the treasury.

For refunding county, district and municipal taxes paid into the treasury by railroad companies, such sum is hereby appropriated as will be necessary to refund to each county, district and municipal corporation the amount of such taxes as may be paid into the treasury to the credit of such county, district and municipal corporation.

Refunding to counties, district, etc., taxes paid by railroads.

## PUBLIC PRINTING.

For public printing and binding, eighteen thousand dollars.

Public printing.

For supplying stationery and printing paper for state use, five thousand dollars.

Stationary and printing paper.

## RAILROAD COMMISSIONERS.

To pay commissioners to assess railroad property, five hundred dollars.

Railroad commissioners.

## CIVIL SUITS.

To pay expenses of civil suits, and pay of state agents, one thousand dollars.

Expenses civil suits, etc.

## FISH COMMISSIONERS.

To pay expenses of fish commissioners, to be drawn upon the order of the president of the fish commission, one thousand five hundred dollars.

Fish commissioners.

To pay for necessary improvements and to build carp-ponds at the hatchery at Romney, five hundred dollars.

Improvements at hatchery.

## VACCINE AGENTS.

To pay salaries of vaccine agents, to be drawn upon the order of the governor, one hundred and fifty dollars.

Vaccine agent.

## INTEREST.

To pay interest on money borrowed of the school fund, to be paid after appropriations made in pursuance of existing general laws and before any other appropriations, twenty-seven thousand eight hundred and twenty-seven dollars.

Interest on money borrowed from school fund.

## CAPITOL BUILDING.

For further construction of capitol building at Charles-ton, fifty thousand dollars.

Capitol building

To be drawn upon the order of the board of public works.

How drawn.

## MISCELLANEOUS.

To pay Thompson & Hibberd for ventilating supreme court room, thirty-five dollars.

Thompson & Hibbard.

To pay Friend & Son for furniture for treasurer's office, one hundred and ninety-eight dollars and twenty cents.

Friend & son.

Friend & Son.

To pay Friend & Son for furniture for house of delegates, eight hundred and seven dollars and ninety-six cents.

Case in clerk's office house of delegates.

For cases in office of clerk of house of delegates, for preservation of records, one hundred dollars.

No money to be paid beyond appropriation.

2. *Be it further enacted*, That no sums of money shall be paid out of the treasury during the fiscal year ending on the thirtieth day of September, one thousand eight hundred and eighty-one, beyond the amounts hereby appropriated, unless the same be provided for by the constitution, or some general law. But in addition to the sums hereby appropriated for said fiscal year, the auditor may, after the expiration of said fiscal year, ending on the thirtieth day of September, one thousand eight hundred and eighty-one, and during the first six months of the fiscal year beginning on the first day of October, one thousand eight hundred and eighty-one, make payments to the following institutions, officers and persons, upon proper vouchers, of sums of money not exceeding in the aggregate one-half the amount appropriated for the same purposes for the fiscal year ending September thirtieth, one thousand eight hundred and eighty-one; that is to say: for the support of convicts and pay of guards at the penitentiary; for criminal charges; for the support of lunatics in jail; for the pay of teachers at the university; for current expenses of the institution of the deaf, dumb and blind; for current expenses of the hospital of the insane; for contingent expenses of the different executive officers, and of the library, and adjutant general; for pay of clerks in the executive offices; for printing and binding supreme court reports; for refunding over paid taxes, and taxes erroneously assessed, and for public printing and binding, and for supplying stationery. And during the said six months the auditor may pay all proper charges for refunding to counties and districts, taxes for county and district purposes, upon lands redeemed at the auditor's office, and also taxes assessed against railroads for county and district purposes, which may be presented to him for payment. And there are hereby appropriated out of the state fund, for the year ending September thirty, one thousand eight hundred and eighty-two, sums sufficient to make the payments authorized by this section.

Exception.

Auditor to pay; when.

Public institutions, etc., may draw at end of fiscal year.

Superintendents of public institutions to furnish itemized accounts of expenditures of contingent fund and for repairs.

To be included in report.

3. The superintendents of the several public institutions of this state shall furnish to the board of directors and regents of their respective institutions itemized accounts of all money paid out on account of appropriations for contingent expenses and repairs; and when audited and allowed, the directors and regents respectively shall include such itemized accounts in their reports directed by law to be made.

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed. Commencement

CHAPTER LXXXVIII.

AN ACT making an appropriation to cover a deficiency in the amount heretofore appropriated for contingent expenses of the house of delegates.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the sum of five hundred and fifty dollars be and the same is hereby appropriated to pay any deficiency which may occur in the appropriation made at the present session of the legislature for contingent expenses of the house of delegates. Deficiency in contingent fund house of delegates.

2. No warrant shall be drawn upon this appropriation except upon account approved by the sergeant-at-arms of the house of delegates. How paid.

[Approved March 14, 1881.]

NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed. Commencement

CHAPTER LXXXIX.

A BILL making appropriations of public money to pay members of the legislature, and for salaries of the officers of the government in pursuance of the forty-second section of the sixth article of the constitution.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

1. There shall be, and is hereby appropriated for the fiscal year ending September thirtieth, one thousand eight hundred and eighty-one, the following sums for pay of members and officers of the legislature, and for salaries of the officers of government. Fund to pay members and officers of legislature, and salaries of officers of government.

LEGISLATIVE DEPARTMENT.

Senate.

To pay for mileage allowed to members of the senate To pay mileage of senators.

for the session commencing on the twelfth day of January, one thousand eight hundred and eighty-one, the sum of one thousand one hundred and ninety-five dollars and sixty cents.

Per diem of senators.

To pay *per diem* compensation of the twenty-four members of the senate from the twelfth day of January to the fifteenth day of March, one thousand eight hundred and eighty-one, six thousand one hundred and seventy-four dollars.

Per diem of officers, etc., of senate.

To pay per diem compensation of the officers, clerks of committees and pages, that is to say :

Clerk.

To the clerk of the senate, seven hundred and thirty dollars.

Assistant clerks.

To two assistant clerks of the senate, seven hundred and fifty-six dollars.

Committee clerks.

To three committee clerks, seven hundred and fifty-six dollars.

Pages.

To four pages, five hundred and four dollars.

Sergeant-at-arms.

To the sergeant-at-arms, three hundred and fifteen dollars.

Doorkeeper.

To the doorkeeper, two hundred and fifty-two dollars.

#### *House of Delegates.*

Mileage of delegates.

To pay mileage of sixty-five members of the house of delegates for the session commencing on the twelfth of January, one thousand eight hundred and eighty-one, the sum of two thousand nine hundred and eighty-five dollars and ninety cents.

Per diem of delegates.

To pay *per diem* compensation of the members of the house of delegates from the twelfth day of January to the fifteenth day of March, one thousand eight hundred and eighty-one, sixteen thousand five hundred and six dollars.

Per diem of officers of house of delegates.

To pay *per diem* compensation of the officers, clerks of committees and pages, as follows :

Clerk.

To the clerk of the house of delegates, seven hundred and thirty dollars.

Assistant clerks.

To five assistant clerks, one thousand eight hundred and ninety dollars.

Committee clerks.

To five committee clerks, one thousand two hundred and sixty dollars.

Sergeant-at-arms.

To sergeant-at-arms, three hundred and fifteen dollars.

Doorkeeper.

To the doorkeeper, two hundred and fifty-two dollars.

Pages.

To pay five pages, six hundred and thirty dollars.

#### EXECUTIVE DEPARTMENT.

Salary of governor.

To pay salary of the governor, two thousand seven hundred dollars.

Auditor.

To pay salary of the auditor, two thousand dollars.

Secretary of state.

To pay salary of the secretary of state, one thousand dollars.

Treasurer.

To pay the salary of the treasurer, one thousand four hundred dollars.

To pay the salary of the attorney general, one thousand three hundred dollars. Attorney general.

*State Superintendent of Schools.*

To pay salary of superintendent of free schools, to be paid out of the general school fund, one thousand five hundred dollars. Superintendent of free schools.

*Librarian.*

To pay salary of librarian and *ex officio* adjutant general, one thousand one hundred dollars. Librarian, etc.

*Keeper of the Rolls.*

To pay salary of the keeper of the rolls, three hundred dollars. Keeper of rolls.

*Janitor.*

To pay salary of janitor, one thousand dollars. Janitor.

To pay compensation allowed by law to janitor for his services during the session of the legislature, one hundred and eighty-nine dollars.

JUDICIAL DEPARTMENT.

To pay salaries of the judges of the court of appeals, eight thousand nine hundred and eighty-seven dollars and fifty cents. Judges court of appeals.

To pay salaries of the judges of the circuit courts, twenty-three thousand four hundred dollars. Circuit judges.

To pay compensation allowed by law to persons who hold the courts where the judge of the circuit cannot act, five hundred dollars. Special Judges.

To pay mileage of judges of the court of appeals, seven hundred and fifty dollars. Mileage of judges of court of appeals.

To pay mileage of judges of circuit courts, one thousand eight hundred dollars. Mileage of circuit judges.

To pay salary of clerk of the supreme court of appeals, one thousand dollars. Auditor authorized to pay.

2. The auditor is hereby authorized and directed, when properly demanded, to issue his warrant on the treasury in the same manner he would be required to, if each item of expenditure was directed to be paid to a creditor by name, and no money shall be drawn from the treasury for the purpose herein named during the fiscal year ending September thirtieth, one thousand eight hundred and eighty-one, beyond the amount hereby appropriated, unless the same is authorized by the constitution or some general law. But the auditor may draw his warrants on the treasury in favor of the several officers whose salaries and compensation are provided for in this act, for services actually rendered by them during the first six months of the fiscal year beginning on the first day of October, one thousand eight hundred and eighty-one, for an amount not to exceed in the aggregate, one-half of the sum appropriated for the salary or compensation of such officers No money to be drawn beyond appropriation, unless, etc.  
Auditor may pay salaries of public officers services actually rendered, etc.



respectively, for the year ending September thirtieth, one thousand eight hundred and eighty-one.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XC.

AN ACT to release and discharge Ephraim Bee, one of the securities of E. L. Wade, late sheriff of Doddridge county, from the sum that now remains due (being the penalty and damage) on certain judgments rendered in favor of the state against said Bee and others.

[Passed March 12, 1881]

**Preamble.**

WHEREAS, The state obtained judgment on the twenty-fourth day of November, one thousand eight hundred and seventy-three, against E. L. Wade, late sheriff of Doddridge county, and Ephraim Bee and others, the securities of said sheriff, for amounts that aggregated the sum of eight thousand eight hundred and thirty-one dollars and sixty-one cents, with twelve per centum interest on said sums from the date of said judgments till paid, and one hundred and twenty-three dollars and thirty cents costs of said suits; and

WHEREAS, There was included in said judgments the amount of two thousand three hundred and forty-six dollars and sixty cents, interest computed at the rate of twelve per cent. which accrued between the maturity of said debt and the date of said judgments; and

WHEREAS, The state has realized from said judgments the sum of ten thousand nine hundred and sixty-six dollars, much the greater part of which was obtained by the sale of the real estate of the said Bee, which is more than the amount of the debt originally due from said defaulting sheriff, including interest at the rate of six per cent. and the cost of suit; and

WHEREAS, The said Ephraim Bee has always endeavored to pay and discharge said judgments in a manly and honest manner; and,

WHEREAS, There remains yet due and unpaid a considerable sum, which sum is composed of damages over and above the usual rate of interest, which was imposed as a penalty by law, upon the said Wade and his securities, for his default as said sheriff; therefore,

Be it enacted by the Legislature of West Virginia :

1. That the said Ephraim Bee, be, and he is hereby forever released and discharged from any sum remaining due as aforesaid, on account of his suretyship aforesaid, for the said E. L. Wade, late sheriff of Doddridge county, as aforesaid, and that said judgments, so far as they affect said Bee, be forever released and discharged.

Judgment in favor of the state against Ephraim Bee, as surety for E. L. Wade, late sheriff of Doddridge county, released and discharged.

[Approved March 17, 1881.]

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.

Commencement

## CHAPTER XCI.

AN ACT to amend and re-enact section fifty of an act of the general assembly of the state of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled "an act to incorporate the city of Wheeling, in Ohio county," as amended and re-enacted by chapter sixty-two of the acts of the legislature of West Virginia, of the year one thousand eight hundred and seventy-nine.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That section fifty of an act of the general assembly of the state of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled "an act to incorporate the city of Wheeling, in Ohio county," as amended and re enacted by chapter sixty-two of the acts of the legislature of West Virginia, be amended and re-enacted so as to read as follows :

Acts amended.

50. The council shall have authority to ordain and enforce such regulations as shall be necessary or proper to prevent accidents by fire within said city, or to secure the inhabitants thereof, as far as practicable, from injury thereby; and specially to provide for the establishment, organization, equipment and government of fire companies in said city; and to provide suitable magazines, or places in or near said city for the storage of gun powder, petroleum, or other combustible and dangerous articles; and to ordain and enforce such regulations as they may deem necessary respecting the place and manner of keeping and transporting the same. And the council shall also have authority to assess, by ordinance, and collect an

Power of council to ordain an enforce regulations to prevent accidents by fire, etc.

To organize fire companies, etc.

Provide magazines for storage of gunpowder, etc.

License for sale thereof

Tax on foreign insurance companies.

Certificate of authority to officer, agent, etc., of foreign insurance company. When and what account to be rendered by officer, agent, etc.

Exception.

Payment of tax; when and how made.

How recovered.

Power of council to prohibit insurance company in default from transacting insurance, etc., until tax paid.

annual license tax for the sale of all such articles. All insurance companies, not incorporated under the laws of this state, engaged in the business of insurance in said city, may be required by the council thereof, by ordinance, to pay to said city for the privilege of transacting insurance business therein, a percentage upon their receipts for premiums of not more than one-half of one per cent. of the gross amount of premiums received by them for insurance in said city during the half year ending on every first day of July and January; and said council may, by ordinance, prescribe that no person shall act in said city as officer, agent, broker, solicitor, or otherwise, for or on behalf of any such company in the transaction of insurance business, or soliciting risks, until he shall have obtained from the clerk of the city a certificate of authority so to do, which certificate the clerk shall issue upon application, that every person to whom such certificate shall be granted shall, on or before the fifteenth day of July and January in each year, render to the said clerk a full, true and just account, verified by his oath, of all such premiums, which, during the half year ending on every first day of July and January preceding such report, shall have been received by him, or any other person for him, in behalf of any such company, or by the company directly or through any other person, for risks, procured by him, unless the same are accounted for in the account rendered under such ordinance by some other officer, agent, broker or solicitor for the company in said city; and that the books in the possession or under the control of the person having such certificate, showing the business done by or through him in said city for any such company, shall be open to the examination of such officers of the city or committee of the council as the council shall designate for the purpose. Said council may, by ordinance, further require that every person holding such certificate, when he renders such account, shall pay over to the receiver of the city of Wheeling the amount for which the company which received the premiums mentioned in such account is liable on account of such premiums, under any ordinance passed by the council of said city by virtue hereof. And such amount may also be recovered of such company or the person rendering such account, by action in the name and for the use of the city, as for money had and received for its use. Said council may further, by ordinance, provide that if such accounts be not rendered, and moneys paid, on or before the fifteenth day of July and January in each year, it shall be unlawful for the company in default to transact any insurance business in said city until such accounts are duly rendered and the money due from such company fully paid.

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XCII.

AN ACT appropriating the sum of eighty-five dollars for the relief of James W. Glenn, for taxes erroneously paid by him.

[Passed March 12, 1881.]

Be it enacted by the Legislature of West Virginia :

1. That the sum of eighty five dollars is hereby appropriated to James W. Glenn, out of any money in the treasury not otherwise appropriated, for taxes erroneously assessed against the said James W. Glenn, and paid by him in the county of Jefferson.

Appropriation to pay James W. Glenn for taxes erroneously assessed and paid.

2. The auditor is hereby directed to draw his warrant upon the treasury for the amount hereby appropriated, in favor of said James W. Glenn.

Auditor directed to draw warrant therefor.

[Approved March 17, 1881.]

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XCIII.

AN ACT to establish the independent school district of Buckhannon, out of sub-district No. one of Buckhannon district of Upshur county.

[Passed March 12, 1881.]

Be it enacted by the Legislaturo of West Virginia :

1. That in the ovent a majority of the votes cast at the olection hereinafter provided for be in favor thereof, the following described territory in the county of Upshur, including the town of Buckhannon, shall, after the result of such election is ascertained and declared, be an independent school district, and be known as the independent school district of Buckhannon, to-wit: All of the town of Buckhannon and the territory adjacent thereto, designated and known as sub-district No. 1 of Buckhannon district of Upshur county, as now organized, and bounded and describod as follows: Beginning at the lino between Jacob Deon and John G. Dix, on the Buckhannon river,

Independent school district of Buckhannon established upon consent of voters of Buckhannon district.

Boundaries of independent district.

below said Deen's residence; thence a straight line in a western direction to the low gap where the Clarksburg and Buckhannon turnpike crosses the hill south of Luther Martin's residence; thence a straight line in a western direction to a point where the Gladly road intersects the Staunton and Parkersburg turnpike, so as to include a part of the farm formerly owned by John Brake; thence a straight line in a southern direction, to a line between the farm of M. J. Jackson and Mentraville Regar; thence with said line in an eastern direction to the Buckhannon river; thence with and down said river to a point opposite the Crite's mill road; thence across said river to the mouth of said mill road; thence a straight line through J. W. Regar's farm to the Heavner ford in said river; thence with and down said river to the beginning.

When and how submitted to voters of the district.

2. At the next election for county superintendents and other school officers, to be held as is, or may be prescribed by law, it shall be the duty of the board of education of said Buckhannon district, of Upshur county, to submit to the voters of said Buckhannon district, the question of the adoption or rejection of the provisions of this act, and all persons residing in said Buckhannon district, and are entitled to vote at such elections, and no others, shall be entitled to vote on such question. The election shall be by ballot, and those voting in favor of the establishment of such independent district shall have written or printed on their tickets the words "For Independent District," and those voting against the establishment thereof, shall have written or printed on their ballots the words "Against Independent District." The election shall be superintendent, conducted, and the result thereof ascertained and declared, by the same officers superintending and conducting the election for county superintendent and other school officers elected on that day, and all the provisions of the election laws in this state, so far as they are applicable, shall be in force and govern such election, unless herein otherwise provided. At the said election there shall also be elected by the voters residing in said territory, a board of education for said independent school district, consisting of a president, and two commissioners, who shall be a corporation by the name of the "board of education of the independent school district of Buckhannon," and by that name may sue and be sued, plead and be impleaded, purchase and hold so much real estate and personal property as may be necessary for the purpose of this act, and without any transfer or conveyance they shall be deemed the owners of all real and personal property within the territory aforesaid, now held or owned for free school purposes, by the board of education of Buckhannon district, and they shall have all the powers, perform all the duties, and be subject to all the liabilities both of boards of education and trustees. They shall

Who to vote at election.

Ballots; what to have thereon.

Result; how ascertained and declared.

Board of education to be elected.

Powers and duties of board.

hold their offices for the term of two years, beginning on the first day of September next after their election, and until their successors are elected and qualified according to law; and in the year one thousand eight hundred and eighty-three, and biennially thereafter, a new board shall be elected at the same time, and under the same regulations that county superintendents and other school officers are elected; but nothing herein contained shall be construed to prohibit the re-election and eligibility of any member of such board for two or more terms. Vacancies in the board shall be filled for the unexpired term by appointment by the board.

Term of office.

When subsequent elections to be held.

3. The independent school district of Buckhannon, herein authorized to be established, shall conform to and be governed by the general school law in this state, except when it is otherwise provided by this act.

Shall conform to general school law.

4. All school moneys, whether belonging to the teachers' or building fund, of Buckhannon district, which may be unexpended when the provisions of this act take effect, shall be divided between the said Buckhannon district and the independent school district of Buckhannon, in proportion to the amount of taxable property in each of said districts, after the creation of the said independent school district of Buckhannon. The latest available assessment for state and county purposes shall be taken as the basis of such settlement and division. It shall be the duty of the boards of education of each of said districts, within ninety days after the provisions of this act are adopted, to make the financial settlement provided for in this section. The said board of education of the independent school district of Buckhannon shall have power to lay levies in the same manner as provided in the case of boards of education of districts, but if, in the judgment of said board, it will be advantageous to the interest of education in such district to do so, they may apply all moneys at their disposal, and which may be levied by them, either entirely to the employment and payment of teachers, and the incidental expenses necessary to carrying on and conducting schools, including fuel and other things necessary for such schools, or entirely to building purposes, or partly for either, but there shall be a school taught in said district for at least four months in each year, and the board of education may provide for a longer period without resorting to a vote of the people residing therein. But the board of education of the independent school district hereby created, shall not lay a greater levy than forty cents on the one hundred dollars' valuation of the property for school purposes, nor more than thirty cents on the like valuation for building purposes, in any one year.

Settlement with Buckhannon district; when and how made.

Board of education to have power to lay levies.

School moneys; how applied.

Four months school to be taught.

Limit as to levy for school and building purposes.

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each house, by a vote taken by yeas and nays, having so directed.

## CHAPTER XCIV.

AN ACT to authorize the judges of the first judicial circuit to employ shorthand writers in certain cases and to repeal chapter ninety of the acts of the legislature of West Virginia, of one thousand eight hundred and seventy.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

**Judges of first judicial circuit authorized to employ shorthand writers.**

1. The judges of the first judicial circuit may, at their discretion, employ short-hand writers to report, under such orders and regulations as the said judges may prescribe, the proceedings had and testimony given during the trial of any cause in said circuit; and may allow them a reasonable compensation for their services and expenses, to be certified by the court to the county court or other tribunal for police and fiscal affairs of the county in which said trial took place, and paid by such county court or other tribunal for police and fiscal affairs out of the county treasury.

**May allow reasonable compensation for services and expenses.**

**How paid.**

**Act repealed.**

2. Chapter ninety of the acts of the legislature of West Virginia, of one thousand eight hundred and seventy, be and the same is hereby repealed.

[Approved March 16, 1881.]

## [NOTE BY THE CLERK OF THE HOUSE OF DELEGATES].

**Commencement** The foregoing act takes effect from its passage, two-thirds of the members elected to each House, by a vote taken by yeas and nays, having so directed.

## CHAPTER XCV.

AN ACT to amend and re-enact section one of chapter eighty-three of the acts of one thousand eight hundred and seventy-one, entitled "an act to provide free schools for the district of Elizabeth, in the county of Wirt," passed February twenty-one, one thousand eight hundred and seventy-one.

[Passed March 14, 1881.]

Be it enacted by the Legislature of West Virginia :

**Act amended.**

That section one of chapter eighty-three of the acts of one thousand eight hundred and seventy-one be amended and re-enacted so as to read as follows :

1. The town of Elizabeth, in the county of Wirt, with the adjoining territory, the metes and bounds of which are hereinafter described, shall constitute and be known hereafter as the independent school district of Elizabeth; and the board of education shall consist of three commissioners, who shall be elected by the resident voters of said district; and have exclusive control of all schools therein. The boundaries of said district shall be as follows: Beginning at the mouth of Tucker's creek, running thence up said creek, with the meanderings thereof, to the old ford; thence to the back line of the land owned by James Wiseman, and with the same to the Kanawha river, near the land owned by E. R. Woodyard, and with the meanderings of the Kanawha river to the mouth of Tucker's creek, the place of the beginning, instead of, as now, with the corporate limits of the town of Elizabeth: *Provided, however,* That before this amended section shall take effect, it shall be submitted to the voters of the district from which the annexed territory is taken at the next election for school officers in said district. The tickets voted at said election shall have written or printed on them "for annexation," or "against annexation;" and if a majority of votes shall be in favor of annexation, then the provisions of this act shall have full force in said district; otherwise it shall not be in force.

Independent school district of Elizabeth established.

Board of education to consist of three commissioners.

Boundaries of district.

Before act takes effect question to be submitted to voters of district; when and how submitted.

E. W. WILSON,  
*Speaker House of Delegates.*

A. E. SUMMERS,  
*President of the Senate.*

STATE OF WEST VIRGINIA, }  
OFFICE OF SECRETARY OF STATE, }  
March 19, 1881. }

I certify that the foregoing act, having been presented to the governor for his approval, and not having been returned by him to the house of the legislature, in which it originated, within the time prescribed by the constitution of the state, has become a law without his approval.

RANDOLPH STALNAKER, JR.,  
*Secretary of State.*

[NOTE BY THE CLERK OF THE HOUSE OF DELEGATES.]

The foregoing act takes effect at the expiration of ninety days after its passage.





# JOINT RESOLUTIONS.

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[No. 1.]

**JOINT RESOLUTION** to provide the manner of counting the vote for state officers.

Resolved by the Legislature of West Virginia :

That the joint rules adopted by the legislature of one thousand eight hundred and seventy-seven, relating to the counting of the vote for state officers be, and the same are hereby adopted as the rules which shall govern the present legislature upon the same subject.

[Adopted January 12, 1881.]

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[No. 2.]

**JOINT RESOLUTION** directing the number of daily journals to be furnished to the senate and house of delegates.

Resolved by the Legislature of West Virginia :

That the public printer be instructed to furnish of the daily journals of each house one hundred and sixty copies of the journal of each house for the use of the senate, and three hundred and fifty copies of the journal of each house for the use of the house of delegates, instead of the number now furnished to each house respectively.

[Adopted January 14, 1881.]

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[No. 3.]

**JOINT RESOLUTION** providing for a joint committee to prepare a schedule of apportionment of representatives and senators in this state.

Resolved by the Legislature of West Virginia :

That a committee of thirteen, eight from the house and five from the senate, be appointed to report to the legislature, a schedule for the apportionment of representatives and senators in this state.

[Adopted January 17, 1881.]

[No. 4.]

JOINT RESOLUTION giving the committee on the judiciary certain copies of the statutes for use in the preparation of bills.

Resolved by the Legislature of West Virginia :

That two copies of the code of West Virginia, and of each of the session acts passed since the adoption of the code, be furnished to the committees on the judiciary, to be cut up and used as far as necessary in the preparation of bills for the action of the two houses.

[Adopted January 18, 1831.]

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[No. 5.]

JOINT RESOLUTION providing for a joint committee, to whom shall be referred all propositions relating to the times of holding the circuit courts.

Resolved by the Legislature of West Virginia :

That a joint committee of three on the part of the senate, and five on the part of the house of delegates, be appointed, to whom shall be referred all propositions relating to the times of holding circuit courts in all the counties of the state.

[Adopted January 18, 1831.]

[No. 6.]

JOINT RESOLUTION providing that our senators be instructed and our representatives requested to introduce a bill asking the United States to cede to the state of West Virginia certain property in Jefferson county.

Resolved by the Legislature of West Virginia :

That our senators be instructed and our representatives requested to introduce a bill in their respective bodies, asking the United States to cede to the state of West Virginia the vacant lands, water power, or any other property belonging to the United States, in the town of Harper's Ferry, or the county of Jefferson, the proceeds from the sale of which shall be applied to educational purposes as directed by the legislature of this state.

*Resolved*, That the governor shall cause a copy of the foregoing (immediately upon its passage), to be transmitted to each senator and representative in congress from this state.

[Adopted January 24, 1831.]

## [No. 7.]

JOINT RESOLUTION increasing the number of the joint committee upon the apportionment of representation in the legislature.

Resolved by the Legislature of West Virginia :

That there be added to the joint committee heretofore appointed upon the apportionment of representation in the legislature, three members, one from the senate and two from the house of delegates.

[Adopted January 24, 1881.]

## [No. 8.]

JOINT RESOLUTION adopting joint rules for the government of the legislature.

Resolved by the Legislature of West Virginia :

1. That the joint rules of the senate and house of delegates, printed in the "manual of the legislature for one thousand eight hundred and seventy-nine," be adopted for the government of the legislature at this session, except as hereinafter stated.

2. That in lieu of rule two, the following be adopted: A joint standing committee on enrolled bills shall be appointed, consisting of five members of the senate and five of the house of delegates, to be appointed by the presiding officer of each house, whose duty it shall be to carefully compare all bills and joint resolutions passed by both houses, with the enrollment thereof, and to correct any errors and omissions that may be discovered, and make report to their respective houses. After such examination and report, the enrolled bills and resolutions shall be signed in their respective houses, first by the speaker of the house of delegates, and then by the president of the senate.

3. That the following be adopted as rule eight: "8: The president of the senate and speaker of the house of delegates shall have power to regulate the use of the halls and stairways of the capitol building for selling refreshments, and like purposes, when the legislature is in session."

[Adopted January 25, 1881.]

## [No. 9.]

JOINT RESOLUTION requesting our senators and representatives in congress to secure the passage of a law to regulate the traffic on inter-state railways.

WHEREAS, There is great and just complaint by the people of this state, and of the entire Union, because of the exorbitant charges by

railways for the transportation of freights ; because of unjust discriminations in those charges in favor of certain persons, companies and corporations, and against certain other persons, companies and corporations ; and because of sudden and frequent changes in the rates of toll ; therefore,

Resolved by the Legislature of West Virginia :

1. That our senators be instructed and representative in congress be requested to secure the passage of a law, which, while just to railways, will, as far as congress has authority to legislate, relieve the people of the evils complained of, and prevent abuses and devices that tend to burden inter-state commerce and work to the injury of the public.

2. That the governor be requested to transmit to each of our senators and representatives a copy of this resolution.

[Adopted February 2, 1881.]

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[ No. 10.]

JOINT RESOLUTION providing for the publication and distribution of copies of the acts of the present legislature.

Resolved by the Legislature of West Virginia :

That so soon as any act which amends and re-enacts any chapter, or any part thereof, of the code of West Virginia, shall have been approved by the governor, or shall otherwise become a law, the clerk shall append thereto the proper side notes, and the public printer shall furnish each member of the legislature, for distribution, with twenty copies of each of such acts, (except as to the act relating to the powers and duties of justices there shall be forty copies), to be printed in the form and manner usual in printing the acts of the state. The clerk shall have power to employ an additional assistant to make such side notes. *Provided, however,* That the public printer shall agree to make only one charge for composition in printing said acts.

[Adopted February 8, 1881.]

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[No. 11.]

JOINT RESOLUTION appointing a joint committee to report upon the necessity and propriety of extending the present session of the legislature beyond forty-five days, or of holding an adjourned session thereof.

Resolved by the Legislature of West Virginia :

That a committee consisting of four members of the house and three of the senate be appointed to consider and report upon the

necessity and propriety of extending the present session of the legislature beyond forty-five days, or of holding an adjourned session thereof, to complete the business necessary to be done by this legislature.

[Adopted February 16, 1881.]

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[No. 12.]

JOINT RESOLUTION providing for an extension of the present session of the Legislature, beyond the limit fixed by the constitution.

Resolved by the Legislature of West Virginia, two-thirds of the members elected to each house concurring therein :

That the present session of the legislature be, and the same is hereby extended beyond the period of forty-five days pursuant to the provisions of section twenty-two of article four of the constitution.

[Adopted February 22, 1881.]

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[No. 13.]

JOINT RESOLUTION providing for the appointment of a joint committee upon the re-districting of the state into congressional districts.

Resolved by the Legislature of West Virginia :

That a joint committee, consisting of three members of the senate and six members of the house of delegates, be appointed to take into consideration and report a bill re-districting the state into congressional districts.

[Adopted February 21, 1881.]

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[No. 14.]

JOINT RESOLUTION providing for an adjourned session of the legislature, and for the appointment of a committee to sit in the recess of the legislature for the purpose therein mentioned.

Resolved by the Legislature of West Virginia :

1. That this legislature will adjourn on Saturday, the twelfth day of March, one thousand eight hundred and eighty-one, to meet at

the capitol, in the city of Wheeling, on the first Wednesday in February, one thousand eight hundred and eighty-two, at twelve o'clock, meridan.

2. That a joint committee on the revision of the laws, consisting of three members of the house, and two of the senate, be appointed previous to such adjournment, to sit for such time as may be necessary during the recess of the legislature, whose duty it shall be to prepare and have printed, by the public printer, and report to the two houses at said adjourned session, such bills as may be necessary to a complete revision of the laws of this state, preparatory to the publication of a new edition of the code of West Virginia; and that the public printer mail to each member of the legislature three copies of each bill printed, under the direction of said committee.

3. That each member of said committee shall receive four dollars per day, for each day he is actually and necessarily employed in the discharge of his duties, under the second resolution, to be paid out of the treasury of the state, upon his certificate of the number of days he was so employed.

[Adopted February 24, 1881.]

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[No. 15.]

JOINT RESOLUTION providing for the appointment of a committee to make arrangement for the inauguration of Governor elect Jacob B. Jackson.

Resolved by the Legislature of West Virginia :

That a committee of two on the part of the senate, and three on the part of the house of delegates be appointed to make all suitable arrangements for the inauguration of Governor elect Jacob B. Jackson on the fourth day of March proximo. And said committee is authorized to act in conjunction with any committee appointed by the citizens of Wheeling, having the above mentioned end in view.

[Adopted February 22, 1881.]

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[No. 16.]

JOINT RESOLUTION expressing sympathy for Ireland.

Resolved by the Legislature of West Virginia :

That the people of West Virginia regard with solicitude and sorrow the painful condition and suffering of the people of Ireland, and deeply sympathize with them, in their efforts to obtain justice, home government and the fruit of their toil, as against aristocratic tyranny.

[Adopted February 28, 1881.]

[No. 17.]

JOINT RESOLUTION providing for the publication of the acts of the present session of the Legislature.

Resolved by the Legislature of West Virginia :

That so soon as practicable after the recess of the legislature the public printer cause to be printed, indexed and bound twenty-five hundred copies of the acts passed by this legislature at the present session, to be distributed in the manner prescribed by law.

[Adopted February 23, 1881.]

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[No. 18.]

JOINT RESOLUTION amending and re-adopting section one of house joint resolution number fourteen.

Resolved by the Legislature of West Virginia :

That section one of house joint resolution number fourteen, providing " for an adjourned session of the legislature, and for the appointment of a committee to sit in the recess of the legislature, for the purpose therein mentioned," be amended and re-adopted so as to read as follows :

" That when this legislature adjourns on the fifteenth day of March, one thousand eight hundred and eighty-one, it will adjourn to meet at the capitol, in the city of Wheeling, on the second Wednesday in January, one thousand eight hundred and eighty-two, at twelve o'clock noon.

[Adopted March 10, 1881.]

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[No. 19.]

JOINT RESOLUTION authorizing the payment of an unexpended balance remaining in the treasury of the appropriation for contingent expenses and assistance in the attorney general's office for the fiscal years ending September one thousand eight hundred and seventy-nine and eighty.

WHEREAS, There remains in the treasury an unexpended balance of the appropriation for the fiscal years ending September thirty, one thousand eight hundred and seventy-nine, and September thirty, one thousand eight hundred and eighty, for contingent expenses and assistance in the attorney general's office, and



## JOINT RESOLUTIONS.

WHEREAS, O. D. Cook rendered such assistance during the whole of said fiscal years and has not received full pay therefor; therefore,  
Resolved by the Legislature of West Virginia :

That the attorney general be and he is hereby authorized to draw his warrant upon the auditor for said unexpended balance and apply the same to the payment of the said O. D. Cook for his said services.

[Adopted March 12, 1881.]

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[No. 20.]

JOINT RESOLUTION providing for the payment of postage on certain acts to be distributed.

Resolved by the Legislature of West Virginia :

That the auditor be required out of his contingent fund, to furnish postage stamps to the clerk of the house of delegates to enable said clerk to mail the acts as they are published in sheets to the members of this legislature.

[Adopted March 14, 1881.]

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[No. 21]

JOINT RESOLUTION in reference to the hiring of convicts.

Resolved by the Legislature of West Virginia :

That the board of public works and the directors of the penitentiary are hereby prohibited from hiring or letting the labor of any convict in the penitentiary for a longer period than one year, unless the same be let or hired for a price which, if obtained for each convict in the penitentiary, will make the institution self-sustaining.

[Adopted March 15, 1881.]

# CORPORATIONS.

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## JUNCTION IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of Junction Iron Company, for the purpose of carrying on within the states of West Virginia and Ohio the business of dealing in iron and its various products, and of manufacturing the same in any and all of its different branches, mining and dealing in ores, coal and limestone, and conducting such other business as may be advantageous and incidental to the manufacture of iron in any and all of its various and different branches, whatsoever; and for the further purpose of buying, selling and exchanging merchandise generally. And for the further purpose of doing and carrying on a towing and transportation business, with steamboats and barges on the Ohio river and other western rivers, which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, and state of West Virginia, and is to expire on the twelfth day of March, in the year one thousand eight hundred and ninety-nine (1899), and for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscription the sum of fifty (50) dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred thousand (200,000) dollars in all. The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned respectively, as follows, that is to say:

By Daniel C. List, of the city of Wheeling, West Virginia, one share;  
Samuel Laughlin, of the city of Wheeling, West Virginia, one share;

Daniel McGarry, of Millport, Columbiana county, Ohio, one share;  
John J. Jones, of the city of Wheeling, West Virginia, one share;  
George A. Dean, of Mingo Junction, Jefferson county, Ohio, one share;

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twelfth day of March, in the year one thousand eight hundred and seventy-nine.

DANIEL C. LIST.

SAMUEL LAUGHLIN.

DANIEL MCGARRY.

JOHN J. JONES.

GEORGE A. DEAN.

Wherefore. The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twelfth day of March, eighteen hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirteenth day of March, eighteen hundred and seventy-nine.

SOBIESKI BRADY,

*Secretary of State.*

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## JACKSON COUNTY AGRICULTURAL AND MECHANICAL ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Jackson County Agricultural and Mechanical Association," for the purpose of promoting and encouraging agricultural, mechanical and manufacturing interests; encouraging the raising and improvement of live stock and of acquiring real estate for fair grounds, building, etc., by purchase or otherwise; which corporation shall keep its principal office at Ripley, Jackson county, West Virginia, and to expire on the first day of January, eighteen hundred and ninety-eight. And for the purpose of forming said corporation we have subscribed the sum of one hundred and fifteen dollars to the capital stock thereof, and have paid in on said subscription the sum of eleven and one-half dollars (11.50), and desire the privilege of increasing said capital by sales of additional shares from time to time to ten thousand dollars in all. The capital so subscribed is divided into shares of one dollar each, which are held by the undersigned respectively, as follows, and the shares hereafter acquired, are to be the same in value:

J. M. Greer, five shares, five dollars;

R. B. Graham, five shares, five dollars;

S. B. Greer, five shares, five dollars;

N. S. Sayre, five shares, five dollars ;  
 J. M. Poling, two shares, two dollars ;  
 F. Leon Clerc, five shares, five dollars ;  
 W. L. Armstrong, three shares, three dollars ;  
 Geo. W. Shinn, five shares, five dollars ;  
 Isaiah Cunningham, five shares, five dollars ;  
 H. B. Bishop, five shares, five dollars ;  
 John H. Riley, ten shares, ten dollars ;  
 Jonathan Chase, five shares, five dollars ;  
 A. F. Parsons, five shares, five dollars ;  
 W. F. Greer, ten shares, ten dollars ;  
 J. W. Maguire, ten shares, ten dollars ;  
 John S. McKown, five shares, five dollars ;  
 Warren Miller, five shares, five dollars ;  
 W. W. Riley, five shares, five dollars ;  
 A. D. Hopkins, ten shares, ten dollars ;  
 J. K. Hood, five shares, five dollars.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, eighteen hundred and ninety-eight, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this eighteenth day of March,  
 eighteen hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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#### FAIRMONT AND FARMINGTON PISCATORIAL ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me ; which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Fairmont and Farmington Piscatorial Association," for the purpose of raising and propagating fish in Marion county, West Virginia, which corporation shall keep its principal office in Fairmont, Marion county, West Virginia, and is to expire on the first day of July, one thousand eight hundred and ninety-seven.

And for the purpose of forming the said corporation, we have subscribed the sum of fifty dollars to the capital thereof, and have paid in on said subscription the sum of forty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned, respectively, as follows, that is to say :

By Lindsay B. Haymond, of Fairmont, Marion county, West Virginia, one share;

William E. Hough, of Fairmont, Marion county, West Virginia, one share;

James F. Hough, of Fairmont, Marion county, West Virginia, one share;

Elza L. Basnett, of Fairmont, Marion county, West Virginia, one share;

Patrick Murphy, of Farmington, Marion county, West Virginia, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twelfth day of August, one thousand eight hundred and seventy-eight.

LINDSAY B. HAYMOND,  
WILLIAM E. HOUGH,  
JAMES F. HOUGH,  
ELZA L. BASNETT,  
PATRICK MURPHY.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of July, one thousand eight hundred and ninety-seven, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-second day of March,  
one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THE CEREDO CEMETERY ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation under the provisions of chapter fifty-four of the code of West Virginia and the acts amending the same by the name of "The Ceredo Cemetery Association," for the purpose of purchasing a tract or parcel of land in the vicinity of the town of Ceredo, Wayne county, West Virginia, and improving the same by fencing, grading, laying out walks, alleys, passages, etc., and sub-dividing it into squares and lots for burial purposes; and selling lots principally for the accommodation of the people of Ceredo and its vicinity; which corporation shall keep its principal place of business in said town of Ceredo; and is to expire on the first day of March in the year one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation, the undersigned have subscribed one thousand dollars to the capital

thereof; and have paid on the same one hundred dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to twelve thousand dollars. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say:

By C. B. Hoard, of Ceredo, West Virginia, fifty shares, fifty dollars paid;

Z. D. Ramsdell, of Ceredo, West Virginia, twenty shares, twenty dollars paid;

George D. Bush, of Ceredo, West Virginia, ten shares, ten dollars paid;

Abel Segur, of Ceredo, district number one, Wayne county, West Virginia, five shares, five dollars paid;

L. M. Handley, of Ceredo, district number one, Wayne county, West Virginia, ten shares, ten dollars paid.

George K. Osgood, of Ceredo, West Virginia, five shares, five dollars paid.

Given under our hands, thistwenty-fourth day of March, one thousand eight hundred and seventy-nine.

C. B. HOARD,  
Z. D. RAMSDELL,  
GEORGE D. BUSH,  
ABEL SEGUR,  
L. M. HANDLEY,  
G. K. OSGOOD.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of March, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twenty-seventh day of March, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### STEWART MINING AND MILLING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Stewart Mining and Milling Company," for the purpose of mining for gold and other ores, and for holding, leasing and purchasing such real estate and personal property, and doing such other acts as may be necessary in such business; which corporation shall keep its principal office or place of business in Washington City,

in the county of Washington, District of Columbia, and to expire on the third day of March, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation we have subscribed the sum of nine hundred dollars to the capital thereof, and have paid in on said subscription the sum of ninety dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned, as follows, respectively, that is to say:

John H. Rice, Washington City, District of Columbia, two shares;  
 Michael D. White, Crawfordsville, Indiana, two shares;  
 John J. Jackson, Parkersburg, West Virginia, two shares;  
 Edward Jordan, Elizabeth, New Jersey, two shares;  
 William H. Kimball, Boston, Massachusetts, two shares;  
 Thomas M. Patterson, Denver, Colorado, two shares;  
 Antonio Pelletier, Washington, District of Columbia, two shares;  
 Benjamin V. Jackson, Parkersburg, West Virginia, two shares;  
 Peter D. Wigginton, Merced, California, two shares.

And the capital to be thereafter sold is to be divided into shares of the like amount.

Given under our hands, this third day of March, one thousand eight hundred and seventy-nine.

JOHN H. RICE,  
 MICHAEL D. WHITE,  
 J. J. JACKSON,  
 EDWARD JORDAN,  
 W. H. KIMBALL,  
 T. M. PATTERSON,  
 ANTONIO PELLETIER,  
 BENJAMIN V. JACKSON,  
 P. D. WIGGINTON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the third day of March, one thousand eight hundred and ninety-nine a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirty-first day of March  
 one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### KINGWOOD OIL AND MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, do hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Kingwood Oil and Mining Company," for the purposes of mining and excavating for petroleum, coal, rock or carbon oil, or volatile substances, and digging, mining and quarrying for coal, lime and other minerals, and manufacturing, selling and transporting to market the same; which corporation shall keep its principal office or place of business at Baltimore in the state of Maryland, and is to expire on the first day of April, A. D. one thousand eight hundred and ninety-nine (1899). And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscription the sum of fifty dollars; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively, as follows, that is to say:

By Josiah H. Legge, of Pittsburgh, Pennsylvania, ten shares;  
 By David H. Chambers, of Pittsburgh, Pennsylvania, ten shares;  
 By Henry Uncapher, of Pittsburgh, Pennsylvania, ten shares;  
 By John Scott, Jr., of Alleghany City, Pennsylvania, ten shares;  
 And Ambrose A. McCarty, of Alleghany City, Pennsylvania, ten shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this first day of April, A. D. one thousand eight hundred and seventy-nine (1879).

Attest: WM. M. MCGILL.  
 SAM'L C. SCHOYER.

JOSIAH H. LEGOE.  
 DAVID H. CHAMBERS.  
 HENRY UNCAPHER.  
 AMBROSE A. MCCARTY.  
 JOHN SCOTT, JR.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of April, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this second day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE HARTE CHEMICAL WORKS.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of



"The Harte Chemical Work," for the purpose of mining, selling and shipping coal and any and all other minerals found upon any lands which they acquire, of boring for, pumping, shipping, selling and refining mineral oil, and manufacturing any and all products which can be obtained from this oil, and marketing the same; manufacturing coke and compressed coal; manufacturing salt; chemicals which can be extracted from the bittern of salt water; soda and all its compounds; glass and glassware of all kinds; boxes, barrels and packages suitable for any of the aforesaid products or for sale to others; and all and any articles which can be found or produced from any minerals mined as aforesaid; and selling anything which has been so manufactured or produced; and of carrying on in connection with operations the business of merchandize; which corporation shall keep its principal office or place of business at or near the city of Charleston, in the county of Kanawha, and is to expire on the fifteenth day of February, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred dollars, and desire the privilege of increasing the said capital by the sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, that is to say:

Alexander Hunter Steen, of Berlin, Ontario county, Canada, one share.

Richard Harte, of Charleston, Kanawha county, West Virginia, three shares.

Mrs. Kate Harte, of Charleston, Kanawha county, West Virginia, one share.

Mrs. Ann Harte, of Baltimore, Maryland, two shares.

Leon Bemelmans, of Charleston, Kanawha county, West Virginia, three shares.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fifteenth day of February, in the year of our Lord one thousand eight hundred and seventy-nine.

ALEXANDER HUNTER STEEN,  
RICHARD HARTE,  
LEON BEMELMANS,  
KATE HARTE,  
ANN HARTE.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the fifteenth day of February, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this third day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
Secretary of State.

## THE PINEY CREEK BOOM AND DAM COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has this day been delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Piney Creek Boom and Dam Company," for the purpose of constructing booms or dams for the purpose of stopping and securing boats, rafts, logs, masts, spars, etc., by virtue of chapter one hundred and twenty-one, Acts of one thousand eight hundred and seventy-seven, in New River, where it passes through the counties of Raleigh and Fayette, in the state of West Virginia, and in Piney creek and Glade creek, in the county of Raleigh aforesaid; which corporation shall keep its principal office or place of business at the mouth of Piney creek, in the county of Raleigh, West Virginia, and shall commence the first day of June, one thousand eight hundred and seventy-nine, and is to expire on the first day of June, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of eighteen hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and eighty dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to the amount of twenty thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned, respectively, as follows, that is to say:

Bernhard Fauber, New Hamburg, Ontario, Dominion of Canada, three shares;

Thompson Walton Wilson, New Hamburg, Ontario, Dominion of Canada, three shares;

John Lee Wilson, Catlett's Station, Faquier county, Virginia, three shares;

William Wilson, Catlett's Station, Faquier county, Virginia, three shares;

Robert Wilson, Catlett's Station, Faquier county, Virginia, three shares;

James T. McCreery, Raleigh C. H., West Virginia, three shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this seventeenth day of December, one thousand eight hundred and seventy-eight.

BERNHARD FAUBER,

T. W. WILSON,

Witness—Wm. Millar as to the signatures of Bernhard Fauber and Thompson Walton Wilson.

JOHN LEE WILSON,

WILLIAM WILSON,

ROBERT WILSON,

Witness—J. M. Catlett as to the signatures of John L. Wilson, William Wilson and Robert Wilson.

JAMES T. MCCREERY,

Witness—J. W. McCreery as to the signature of James F. McCreery.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of June, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this third day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### BROOKE COUNTY BUILDING AND LOAN ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Brooke County Building and Loan Association" of Wellsburg, for the purpose of raising money to be loaned among the members of such corporation for use in buying lots or houses, or in building or repairing houses; which corporation shall keep its principal office or place of business in Wellsburg, in the county of Brooke, and state of West Virginia, and is to expire on the first day of April, one thousand eight hundred and eighty-nine. And for the purpose of forming the said corporation we have subscribed the sum of seven hundred and fifty dollars to the capital stock thereof, and have paid in on said subscription the sum of seventy-five dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred and fifty thousand dollars in all. The capital stock so subscribed is divided into shares of one hundred and fifty dollars each, which are held by the undersigned respectively as follows, that is to say:

Thomas Everett, one share;  
T. H. Marks, one share;  
Leander Browning, one share;  
Joseph Montgomery, one share;  
Israel C. Wright, one share;

All of the town of Wellsburg, West Virginia. And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands this first day of April, A. D., one thousand eight hundred and seventy-nine.

[Signed.]

ISRAEL C. WRIGHT,	[seal.]
J. E. MONTGOMERY.	[seal.]
LEANDER BROWNING,	[seal.]
T. H. MARKS,	[seal.]
THOMAS EVERETT,	[seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby

declared to be, from this date until the first day of April, one thousand eight hundred and eighty-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[S. G.] at the city of Wheeling, this tenth day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE MERCHANTS' AND WORKINGMEN'S CONSOLIDATED COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Merchants' and Workingmen's Consolidated Company," for the purpose of carrying on a general merchandise business in the city of Huntington, W. Va., and for the purpose of acquiring real estate sufficient for houses and store rooms for such business; which corporation shall keep its principal office or place of business at Huntington, Cabell county, W. Va., and is to expire on the tenth day of June, one thousand eight hundred and ninety-eight. And for the purpose of forming said corporation we have subscribed the sum of twelve hundred and twenty-five dollars to the capital stock thereof, and have paid in on said subscription twelve hundred and twenty-five dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand (\$100,000) dollars in all.

The capital so subscribed is divided into shares of twenty-five (\$25.00) dollars each, which are held by the undersigned respectively, as follows:

J. B. Sullivan, Huntington, W. Va., forty shares;  
James T. Unseld, Huntington, W. Va., four shares;  
H. L. Miller, Guyandotte, W. Va., one share;  
T. F. Smith, Huntington, W. Va., two shares;  
G. W. Ham, Huntington, W. Va., two shares;

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands and seals, this, the fifth day of April, one thousand eight hundred and seventy-nine.

J. B. SULLIVAN.	{Seal.}
JAMES T. UNSELD.	{Seal.}
H. L. MILLER.	{Seal.}
T. F. SMITH.	{Seal.}
G. W. HAM.	{Seal.}

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the tenth day of June, one thousand eight hundred and ninety-eight, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this eighteenth day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE WELLSBURG MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Wellsburg Mining Company," for the purpose of mining coal or any other minerals; also to manufacture, purchase, sell, transport, ship, store and deal in goods, wares and merchandise, and to purchase, hold, convey mortgage, lease, or otherwise dispose of real and personal estate in the state of West Virginia or elsewhere; which corporation shall keep its principal office or place of business at Wellsburg, in the county of Brooke, and is to expire on the seventeenth day of April, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of sixty-five thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of six thousand five hundred dollars; and desire the privilege of increasing said capital, by sales of additional shares, from time to time, to three hundred thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively, as follows, that is to say:

Robert A. Balloch, Washington, D. C., two thousand shares;

James Lansburgh, Washington, D. C., two hundred and fifty shares;

Seth A. Terry, Washington, D. C., two thousand shares;

William L. VanDulip, Washington, D. C., two thousand shares;

Henry T. Brownell, Hartford, Conn., two hundred and fifty shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands and seals, this seventeenth day of April, one thousand eight hundred and seventy-nine.

ROBERT A. BALLOCH,	{Seal.}
JAMES LANSBURGH,	{Seal.}
SETH A. TERRY,	{Seal.}
WILLIAM L. VANDULIP,	{Seal.}
HENRY T. BROWNELL.	{Seal.}

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the seventeenth day of April, one thousand eight hundred and ninety-seven, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-third day of April, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### HARRISON COUNTY BUILDING ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of the "Harrison County Building Association" for the purpose of raising moneys to be loaned among the members of the same, for use in buying lots or houses, or in building or repairing houses, and for all legal purposes prescribed by sections twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine of chapter fifty-four of the code of West Virginia, and for loaning money to its members for other purposes; which corporation shall keep its principal office or place of business in the town of Clarksburg, in the county of Harrison, state of West Virginia, and shall expire on the first day of May, one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation, we have subscribed the sum of fourteen hundred and thirty dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and forty-three dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to one hundred and thirty thousand dollars in all. The capital so subscribed is divided into shares of one hundred and thirty dollars each, which are held respectively as follows, that is to say:

M. G. Holmes, one share;  
E. T. Baldwin, one share;  
A. Caywood, one share;  
Russell S. Horner, one share;  
T. S. Spates, one share;  
R. T. Loundes, one share;  
Lee Haymond, one share;  
Jno. C. Vance, one share;  
E. B. Hursey, one share;  
F. M. Horner, one share;  
A. H. Osborn, one share.

All residing and doing business in the town of Clarksburg, county

and state aforesaid; and the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this sixth day of May, one thousand eight hundred and seventy-nine.

E. T. BALDWIN,  
A. H. OSBORN,  
LEE HAYMOND,  
E. B. HURSEY,  
T. S. SPATES,  
JNO. C. VANCE,  
RUSSELL S. HORNER,  
F. M. HORNER,  
A. CAYWOOD,  
M. G. HOLMES,  
R. T. LOUNDES.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of May, eighteen hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this eight day of May, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### NEW CUMBERLAND TELEGRAPH COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "New Cumberland Telegraph Company," for the purpose of operating a telegraph or telephone line between New Cumberland, Hancock county, West Virginia, and McCoy's Station, Jefferson county, Ohio, and other points, as may hereafter be determined, which corporation shall keep its principal office or place of business at New Cumberland, in the county of Hancock, and is to expire on first day of May, one thousand eight hundred and ninety-nine; and for the purpose of forming said corporation, we have subscribed the sum of fifty dollars to the capital thereof, and have paid in on said subscription the sum of twenty-five dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to ten thousand dollars in all. The capital so subscribed is divided into shares of one dollar each, which are held by the undersigned respectively as follows, that is to say:

By Hugh McMahan, New Cumberland, West Virginia, ten shares;  
 B. J. Smith, New Cumberland, West Virginia, ten shares;  
 James Porter, New Cumberland, West Virginia, ten shares;  
 James M. Porter, New Cumberland, West Virginia, ten shares;  
 Charles A. Freeman, New Cumberland, West Virginia, ten shares;  
 And the capital to be hereafter sold is to be divided into shares of  
 the like amount.

Given under our hands this first day of May, one thousand eight  
 hundred and seventy-nine.

HUGH McMAHAN,  
 B. J. SMITH,  
 JAMES PORTER,  
 JAMES M. PORTER,  
 CHARLES A. FREEMAN.

Wherefore, the corporators named in the said agreement, and who  
 have signed the same, and their successors and assigns, are hereby  
 declared to be, from this date until the first day of May, one thou-  
 sand eight hundred and ninety-nine, a corporation by the name and  
 for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state,  
 at the city of Wheeling, this fourteenth day of May, one  
 thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THE GLOBE LUBRICATING OIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby  
 certify that an agreement duly acknowledged and accompanied by the  
 proper affidavits, has been this day delivered to me; which agreement  
 is in the words and figures following:

The undersigned agree to become a corporation by the name  
 of "The Globe Lubricating Oil Company," for the purpose of mining  
 and producing petroleum oil, manufacturing and preparing the same  
 and its products for market, buying and selling the same, and doing  
 a general merchandize business, which corporation shall keep its  
 principal office or place of business at the city of Parkersburg, Wood  
 county, state of West Virginia, and is to expire on the twentieth day  
 of May, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have sub-  
 scribed the sum of five thousand dollars, and have paid in on said  
 subscription the sum of five hundred dollars, and desire the privilege  
 of increasing the said capital by sales of additional shares, from time  
 to time, to one hundred thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dol-  
 lars each, which are held by the undersigned, as follows, respective-  
 ly, that is to say:



By John A. Steel, of Wood county, West Virginia, ten shares;  
 R. H. Thomas, of Wood county, West Virginia, fifteen shares;  
 E. Kopman, of Wood county, West Virginia, ten shares;  
 D. E. Steel, of Wood county, West Virginia, five shares;  
 S. Woodard, of Ritchie county, West Virginia, ten shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twentieth day of May, A. D., one thousand eight hundred and seventy-nine.

JOHN A. STEEL,  
 R. H. THOMAS,  
 E. KOPMAN,  
 D. E. STEEL,  
 S. WOODARD.

Wherefore, the incorporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twentieth day of May, one thousand eight hundred and ninety-nine a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this twenty-seventh day of May,  
 one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THE TRADERS' BUILDING ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, do hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Traders' Building Association," for the purpose of raising money to be used among the members of such corporation in buying lots or houses, or in building and repairing houses, and for such other lawful purposes as may be carried out by homestead and building associations; which corporation shall keep its principal office or place of business at the city of Parkersburg, Wood county, state of West Virginia; and is to expire on the twenty-seventh day of May, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of two hundred dollars each, which are held by the undersigned (all of the city of Parkersburg aforesaid,) respectively as follows, that is to say:

William H. Wolfe, one share ;  
 J. H. Fischer, one share ;  
 William H. Smith, Jr., one share ;  
 Samuel L. Addison, one share ;  
 Levi Campbell, one share ;

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-seventh day of May, one thousand eight hundred and seventy-nine.

WILLIAM H. SMITH, JR.  
 J. H. FISCHER.  
 WILLIAM H. WOLFE.  
 SAMUEL L. ADDISON.  
 LEVI CAMPBELL.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twenty-seventh day of May, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-ninth day of May, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### FAIRMONT OPERA HOUSE.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Fairmont Opera House," for the purpose of buying, owning and using real estate and personal property in the town of Fairmont, Marion county, West Virginia, to rent or let to theatrical, dramatic, literary and benevolent societies, and for such other purposes as may be necessary or proper; which corporation shall keep its principal office or place of business at Fairmont, in the county of Marion, and the state of West Virginia, and is to expire on the first day of May, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of eighteen hundred dollars to the capital thereof, and have paid in on said subscription the sum of eighteen hundred dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to five thousand dollars in all. The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively, as follows, that is to say:

Lindsay B. Haymond, six shares ;  
 Charles M. Davison, six shares ;  
 William A. Walklate, six shares ;

Michael M. Comerford, six shares ;

James M. Lazzell, six shares ;

Thomas Hough, six shares ;

All residents of the county of Marion and state of West Virginia.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-sixth day of May, one thousand eight hundred and seventy-nine.

LINDSAY B. HAYMOND,  
C. M. DAVISON,  
WM. A. WALKLATE,  
MICHAEL M. COMERFORD,  
JAMES M. LAZZELL,  
THOMAS HOUGH.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of May, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirtieth day of May, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### KANAWHA SPOKE AND HOOP COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Kanawha Spoke and Hoop Company," for the purpose of manufacturing staves and barrels, hoops for kegs, barrels, bogshead and other cooperage, spokes, hubs and felloes, and other articles of wood of similar or kindred character, of shipping and vending the same, and of carrying on the business of merchandise in connection therewith, which corporation shall keep its principal office or place of business at or within two miles of the city of Charleston, Kanawha county, and is to expire on the fifteenth day of April, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares from time to time, to thirty thousand dollars.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned, respectively, as follows, that is to say :

Richard Harte, of Charleston, Kanawha county, West Virginia, six shares;

Mrs. Kate Harte, of Charleston, Kanawha county, West Virginia, one share;

George L. Drowillard, of Charleston, Kanawha county, West Virginia, one share;

Mrs. Patty S. Drowillard, of Charleston, Kanawha county, West Virginia, one share;

Mrs. Ann Harte, (widow), of Baltimore, Maryland, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fifteenth day of April, one thousand eight hundred and seventy-nine.

RICHARD HARTE,  
KATE HARTE,  
G. L. DROWILLARD,  
P. S. DROWILLARD,  
ANN HARTE.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the fifteenth day of April, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this second day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### CHARLESTON FEMALE COLLEGE.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement, duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Charleston Female College," for the purpose of teaching the various branches of learning, comprising a thorough collegiate course, and for the purpose of awarding diplomas to students who may pass the requisite examination upon the studies taken and pursued; and for the diffusion of knowledge incident to institutions of a like kind; which corporation shall keep its principal office or place of business at the city of Charleston, in the county of Kanawha, and is designed to be perpetual. And for the purpose of forming the said corporation, we have subscribed the sum of two hundred and fifty dollars to the capital thereof, and have paid in on said subscription the sum of twenty-five dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifty thousand dollars in all. The capital so subscribed is divided into

shares of fifty dollars each, which are held by the undersigned respectively as follows, that is to say :

By James M. Follansbee, Charleston, West Virginia, one share ;

By F. W. Abney, Charleston, West Virginia, one share ;

By Joseph L. Fry, Charleston, West Virginia, one share ;

By Frank Follansbee, Charleston, West Virginia, one share ;

By J. F. Wilcox, Charleston, West Virginia, one share ;

And the capital to be hereafter sold is to be divided into shares of of the like amount.

Given under our hands, this thirtieth day of May, one thousand eight hundred and seventy-nine.

JAMES M. FOLLANSBEE,  
F. W. ABNEY,  
J. L. FRY,  
FRANK FOLLANSBEE,  
J. F. WILCOX.

Wherefore, the corporators named in the same agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this second day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE KANAWHA AND OHIO RIVER PACKET COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Kanawha and Ohio River Packet Company," for the purpose of owning, hiring, navigating and running steamboats for carrying passengers and freight, and for towing flats, boats and barges for the transportation of coal, salt, iron and all other kinds of freight, between any and all points on the Great Kanawha and Ohio rivers; which corporation shall keep its principal office or place of business at Winfield, in the county of Putnam, and state of West Virginia, and is to expire on the first day of January, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of twelve thousand (\$12,000.00) dollars to the capital thereof, and have paid in on said subscription the sum of ten thousand dollars; and desire the privilege of increasing said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of five hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

By James B. Dudding, Frazier's Bottom, Putnam county, West Virginia, nine shares;

John L. Middleton, Winfield, Putnam county, West Virginia, nine shares;

Jerome T. Bowyer, Winfield, Putnam county, West Virginia, four shares;

John B. Dudding, Frazier's Bottom, Putnam county, West Virginia, one share;

D. P. Middleton, Winfield, Putnam county, West Virginia, one share.

All the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fourth day of June, one thousand eight hundred and seventy-nine.

J. B. DUDDING,  
J. L. MIDDLETON,  
JEROME T. BOWYER,  
D. P. MIDDLETON,  
JOHN B. DUDDING.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this seventh day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## THE HOME BUILDING ASSOCIATION OF WHEELING, WEST VIRGINIA.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Home Building Association of Wheeling, West Virginia," for the purpose of raising money to be loaned among the members of said corporation, for use in buying lots or houses, or in building or repairing houses; which corporation shall keep its principal office or place of business in Wheeling, in the county of Ohio, and state of West Virginia, and is to expire on the eleventh day of June, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of eighteen hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and eighty

dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to seven hundred and fifty thousand dollars in all.

The capital so subscribed is divided into shares of one hundred and fifty dollars each, which are held by the undersigned, respectively, as follows, that is to say :

By Charles W. Conner, one share ;  
 Charles H. Berry, one share ;  
 Lott H. Joy, one share ;  
 Grafton A. Beall, one share ;  
 Wm. G. Wilkinson, one share ;  
 Isaiah Warren, one share ;  
 R. J. Smyth, one share ;  
 John S. Trimble, one share ;  
 Henry Seamon, one share ;  
 W. J. W. Cowden, one share ;  
 N. W. Beck, one share ;  
 George W. Eckhart, Jr., one share.

All of the city of Wheeling, West Virginia.

And the capital hereafter to be sold is to be divided into shares of like amount.

Given under our hands this eleventh day of June, one thousand eight hundred and seventy-nine.

CHARLES W. CONNER,	[Seal.]
CHARLES H. BERRY,	[Seal.]
LOTT H. JOY,	[Seal.]
GRAFTON A. BEALL,	[Seal.]
W. G. WILKINSON,	[Seal.]
ISAIAH WARREN,	[Seal.]
R. J. SMYTH,	[Seal.]
J. S. TRIMBLE,	[Seal.]
H. SEAMON,	[Seal.]
W. J. W. COWDEN,	[Seal.]
N. W. BECK,	[Seal.]
GEORGE W. ECKHART, JR.	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the eleventh day of June, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirteenth day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### MONONGALIA AGRICULTURAL ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by

the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Monongalia Agricultural Association," for the purpose of promoting the agricultural and mechanical interests of Monongalia and the adjoining counties, and encouraging the growth and improvement of the stock therein, and for the purpose of acquiring real estate for fair grounds, buildings, etc.; which corporation shall keep its principal office or place of business at Morgantown, in the county of Monongalia, and is to expire on the first day of January, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of one hundred dollars to the capital stock thereof, and have paid in on said subscriptions the sum of ten dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to five thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively, as follows, that is to say:

Wm. C. McGrew, Morgantown, West Virginia, one share;  
 Fred. Breakiron, Monongalia county, one share;  
 Wm. W. John, Monongalia county, one share;  
 Joseph Snyder, Monongalia county, one share;  
 William Wagner, Morgantown, one share;  
 Fielding K. O'Kelly, Morgantown, one share;  
 Elisha Combs, Morgantown, one share;  
 Eliza C. Lazier, Morgantown, one share;  
 Michael Nuse, Monongalia county, one share;  
 James C. Wallace, Morgantown, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fourteenth day of June, one thousand eight hundred and seventy-nine.

W. C. MCGREW,  
 FREDERICK BREAKIRON,  
 MICHAEL NUSE,  
 T. K. O'KELLY,  
 J. C. WALLACE,  
 WM. W. JOHN,  
 W. WAGNER,  
 E. C. LAZIER,  
 JOSEPH SNYDER,  
 E. H. COMBS.

Wherefore the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this nineteenth day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
 Secretary of State.



## NASSAU PALM FIBRE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to form a corporation by the name of the "Nassau Palm Fibre Company," of Washington, District of Columbia, for the purpose of manufacturing fibre from the various kinds of palm, or other fibrous vegetables, at Washington, District of Columbia, and elsewhere; which corporation shall keep its principal place of business or office in the city of Washington, District of Columbia, and it is to expire on the first day of June, one thousand eight hundred and ninety-nine; and for the purpose of forming said company we have subscribed the sum of one hundred thousand dollars to the capital thereof, and have paid it in full, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, viz :

Silas L. Loomis, eight (800) hundred shares;

W. M. Lawrence, fifty (50) shares;

Charles A. Metcalf, fifty (50) shares;

D. T. Jones, fifty (50) shares;

E. J. Pattee, fifty (50) shares;

All of the city of Washington, District of Columbia; and the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-fourth day of June, one thousand eight hundred and seventy-nine, at the city of Washington, District of Columbia.

SILAS L. LOOMIS,	[Seal.]
CHARLES A. METCALF,	[Seal.]
W. M. LAWRENCE,	[Seal.]
D. T. JONES,	[Seal.]
E. J. PATTEE.	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of June, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirtieth day of June, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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 BELMONT NAIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the

proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Belmont Nail Company," for the purpose of manufacturing and dealing in iron and nails; which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, in the state of West Virginia, and is to expire on the eleventh day of July, in the year one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of seven (700) hundred dollars to the capital thereof, and have paid in on said subscriptions, the sum of seventy (70) dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five hundred thousand (500,000) dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows; that is to say:

By Samuel Laughlin, of Wheeling, one share;  
 John Reid, of Wheeling, one share;  
 Thomas O'Brien, of Wheeling, one share;  
 Adam Wilson Kelly, of Wheeling, one share;  
 Robert M. Delaplain, of Wheeling, one share;  
 Andrew Wilson, of Wheeling, one share;  
 Christian Hess, of Wheeling, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this eleventh day of July, in the year one thousand eight hundred and seventy-nine.

SAMUEL LAUGHLIN.  
 JOHN REID.  
 THOMAS O'BRIEN.  
 ADAM WILSON KELLY.  
 ROBERT MCCOY DELAPLAIN.  
 ANDREW WILSON.  
 CHRISTIAN HESS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the eleventh day of July, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twelfth day of July, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### FIBRE MACHINE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by

the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to form a corporation by the name of the "Fibre Machine Company," of Washington, District of Columbia, for the purpose of manufacturing the various kinds of machinery necessary for the production of vegetable fibre, at Washington, District of Columbia, and elsewhere; which corporation shall keep its principal office or place of business in the city of Washington, District of Columbia, and is to expire on the first day of June, one thousand eight hundred and seventy-nine. And for the purpose of forming said company we have subscribed the sum of one hundred thousand dollars to the capital thereof, and have paid it in full, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows, viz:

Silias L. Loomis, eight hundred shares;

W. M. Lawrence, fifty shares;

Charles A. Metcalf, fifty shares;

David T. Jones, fifty shares;

A. E. Loomis, fifty shares;

All of the city of Washington, District of Columbia. And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-fourth day of July, one thousand eight hundred and seventy-nine, at Washington, D. C.

SILAS L. LOOMIS,	[Seal.]
W. M. LAWRENCE,	[Seal.]
D. T. JONES,	[Seal.]
CHARLES A. METCALF,	[Seal.]
A. E. LOOMIS,	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of June, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-eighth day of July, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### ROBINSON GLASS COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of Robinson Glass Company, for the purpose of manufacturing and sell-

ing all kinds of hollow glassware, flint or white glassware and window glass, which corporation shall keep its principal office or place of business at Wheeling, in the county of Ohio, state of West Virginia, and is to expire on the twenty-sixth day of July, one thousand eight hundred and ninety-nine; and for the purpose of forming the said corporation we have subscribed the sum of five (500) hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty (50) dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five (5,000) thousand dollars in all. The capital so subscribed is divided into shares of one (100) hundred dollars each, which are held by the undersigned respectively, as follows, that is to say:

By George W. Robinson, of Wheeling West Virginia, one share;  
 Nannie P. Robinson, of Wheeling, West Virginia, one share;  
 Eva C. Robinson, of Wheeling, West Virginia, one share;  
 Minnie F. Robinson, of Wheeling, West Virginia, one share;  
 G. Harbour Robinson, of Wheeling, West Virginia, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-sixth day of July, one thousand eight hundred and seventy-nine.

GEORGE W. ROBINSON,  
 NANNIE P. ROBINSON,  
 EVA C. ROBINSON,  
 MINNIE F. ROBINSON,  
 G. HARBOUR ROBINSON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twenty-sixth day of July, one thousand eight hundred and ninety-nine a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirtieth day of July, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### ELK RIVER IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of "Elk River Iron Company," for the purpose of renting the furnace at the mouth of Strange creek, Braxton county, West Virginia, and manufacturing pig iron and castings, and merchandizing; which cor-

poration shall keep its principal office or place of business at the mouth of Strange Creek, Braxton county, West Virginia, and shall expire on the first day of January, one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation we have subscribed the sum of eight thousand dollars to the capital thereof, and have paid in on said subscription the sum of eight hundred dollars, and desires the privilege of increasing said capital by sales of additional shares, from time to time, to twenty thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Pierson B. Adams, fifteen shares, fifteen hundred dollars.

H. A. Holt, five shares, five hundred dollars.

Dr. R. P. Lake, ten shares, one thousand dollars;

Col. B. J. Jordan, twenty-three shares, two thousand three hundred dollars.

M. T. Frame, twenty-seven shares, two thousand seven hundred dollars.

The capital to be hereafter sold is to be divided into shares of one hundred dollars each, as above indicated.

Given under our hands, this seventeenth day of June, one thousand eight hundred and seventy-nine.

P. B. ADAMS,  
R. P. LAKE,  
H. A. HOLT,  
B. J. JORDAN,  
M. T. FRAME.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this seventh day of August, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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## PARKERSBURG CARRIAGE AND MANUFACTURING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of the "Parkersburg Carriage and Manufacturing Company" for the purpose of manufacturing and selling of carriages, wagons and all

kinds of vehicles; for the general manufacture of wood or iron; and also to sell, barter and exchange, produce, dry goods and groceries, horses and other stock, and for any other business and purpose useful to the public for which a firm or co-partnership may lawfully be formed under the laws of the state of West Virginia, which corporation shall keep its principal office or place of business at the city of Parkersburg, in Wood county, West Virginia; and is to expire on the first day of June, one thousand eight hundred and ninety-nine. For the purpose of forming said corporation, we have subscribed the sum of ten thousand dollars to the capital stock, and have paid in on said subscription, ten per cent of said sum, ten thousand dollars, to-wit: the sum of one thousand dollars; and desire the privilege of increasing said capital by sales of additional shares from time to time to one hundred thousand dollars. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned as follows, that is to say:

By R. B. Mitchell, of Parkersburg, W. Va., five shares, five hundred dollars;

S. J. Horn, of Parkersburg, W. Va., thirty shares, three thousand dollars;

Thomas Miller, of Parkersburg, W. Va., five shares, five hundred dollars;

E. J. Avery, of Parkersburg, W. Va., thirty shares, three thousand dollars;

C. W. Horn, of Wilmington, Del., ten shares, one thousand dollars;

S. P. Horn, of South Wolfborough, N. H., ten share, one thousand dollars;

S. G. Horn, of Marietta, Ohio, eight shares, eight hundred dollars;

J. J. Harper, of Parkersburg, W. Va., two shares, two hundred dollars.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this tenth day of June, one thousand eight hundred and seventy-nine.

R. B. MITCHELL.

J. J. HARPER.

THOMAS MILLER.

E. J. AVERY.

S. J. HORN.

C. W. HORN,

*By S. J. Horn, his attorney in fact.*

S. P. HORN,

*By S. J. Horn, his attorney in fact.*

T. J. HORN,

*By S. J. Horn, his attorney in fact.*

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of June, one thou-

sand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-second day of August,  
one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THE HENDRICK'S PATENT EXPANSION WHEEL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned, agree to become a corporation by the name of "The Hendricks Patent Expansion Wheel Company," for the purpose of manufacturing and selling the patent expansion wheel, patented by A. C. Hendricks, of Duffields, Jefferson county, West Virginia, dated March, twenty-six, one thousand eight hundred and seventy-eight, and numbered two hundred and one thousand seven hundred and eighty-three. And generally to make, buy and sell any article of utility and commerce that may be profitably connected with the business above named.

Which corporation shall keep its principal office and place of business at Duffields, Jefferson county, West Virginia, subject to a change by vote of stockholders within six months, or when sixty thousand dollars worth of stock has been actually sold and paid for. And is to terminate the first of January, one thousand eight hundred and ninety-nine.

And for the purpose of forming said corporation we have subscribed in money five hundred dollars to the capital stock thereof, and have paid in on said subscription the sum of fifty dollars (it being ten per cent on said subscription).

And further, we have for a satisfactory consideration, bought of A. C. Hendricks, of Duffields, West Virginia, the inventor and patentee, the sole and exclusive right to make and sell in the United States, his patent wheel, on royalty of twenty-five cents on each hub and the improvements thereto belonging, under patent number two hundred and one thousand seven hundred and eighty-three, made and sold by us. And it is agreed between us, that this right now held by us, shall be accepted in full as a subscription of twelve thousand dollars to the stock thereof. And desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is divided into shares of one hundred dollars; and are held by the undersigned respectively as follows, viz:

- A. C. Drawbaugh, Duffields, W. Va., thirty-one shares;
- A. C. Hendricks, Duffields, W. Va., thirty-one shares;
- C. L. Barnhart, Duffields, W. Va., twenty-one shares;
- S. M. Scott, Preston county, W. Va., twenty-one shares;
- A. R. Scott, Champaign City, Ill., twenty-one shares.

And the capital to be hereafter sold, is to be divided into shares of like amount.

Given under our hands this twentieth day of August, one thousand eight hundred and seventy-nine.

A. C. DRAWBAUGH.  
C. L. BARNHART.  
A. C. HENDRICKS.  
S. M. SCOTT, M. D.  
A. R. SCOTT.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-sixth day of August, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE WALDORF COKE AND IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of "The Waldorf Coke and Iron Company," for the purpose of mining coal and iron ore; reducing and selling said coal and iron ore; manufacturing and selling pig iron, and generally for doing each and everything that may be necessary and proper for the successful conducting of the business of mining, reducing, manufacturing or selling coal or iron ore, and acquiring such property as may be proper for such purpose or business. Which corporation shall keep its principal office or place of business in the city, county and State of New York, and a branch office at Ironton, in the county of Taylor and State of West Virginia, and is to expire on the first day of August, in the year one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation we have subscribed the sum of two thousand (2,000) dollars, and have paid in on said subscription the sum of two (200) hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time to sixty (60,000) thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows:

Jenkins B. Young, New York City, New York, four shares;  
Charles S. Hurd, New York City, New York, four shares;  
Thomas D. Dewitt, New York City, New York, four shares;



John H. Boswell, New York City, New York, four shares ;  
 Edmund C. Stanton, New York City, New York, four shares ;  
 And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this sixth day of August, one thousand eight hundred and seventy-nine.

THOMAS D. DEWITT.  
 CHARLES S. HURD.  
 JOHN H. BOSWELL.  
 EDMUND STANTON.  
 J. B. YOUNG.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of August, onethousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-seventh day of August, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### CITIZENS' MUTUAL BUILDING ASSOCIATION OF MARTINSBURG, W. VA.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to form a corporation by the name of "Citizens' Mutual Building Association of Martinsburg, W. Va.," for the purpose of raising money to be loaned among the members of said corporation for use in buying lots or houses, or in building or repairing houses ; which corporation shall keep its principal office or place of business in Martinsburg, in the county of Berkeley, and is to expire on the first day of September, one thousand eight hundred and ninety-five. And for the purpose of forming said corporation we have subscribed the sum of fourteen hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and forty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of two hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

J. Nelson Wisner, one share ;  
 Geo. W. Feidt, one share ;  
 William T. Darby, one share ;  
 John Feller, one share ;  
 C. J. Scheelky, one share ;  
 Frank C. Williams, one share ;  
 W. H. H. Flick, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twentieth day of August, one thousand eight hundred and seventy-nine.

W. H. H. FLICK.  
 J. NELSON WISNER.  
 JOHN FELLER.  
 GEO. W. FEIDT.  
 C. J. SCHEELKY.  
 W. T. DARBY.  
 FRANK C. WILLIAMS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of September, one thousand eight hundred and ninety-five, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-eighth day of August, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE EWING AND BILL LANTERN COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Ewing and Bill Lantern Company," for the purpose of manufacturing and dealing in lanterns, lamps, globes, chimneys and glassware, whether of their own or other manufacture; which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, in the state of West Virginia, and is to expire on the eighth of September, in the year one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of five hundred (500) dollars to the capital thereof, and have paid in on said subscription, the sum of fifty (50) dollars; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one hundred thousand (100,000) dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Joseph Bell, of Wheeling, one share.  
 J. Dallas Ewing, of Wheeling, one share;  
 W. C. Pendleton, of Wheeling, one share;  
 John H. Ewing, of Wheeling, one share;  
 E. L. Bill, of Wheeling, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this eighth day of September, in the year one thousand eight hundred and seventy-nine.

JOSEPH BELL,  
J. D. EWING,  
W. C. PENDLETON,  
JOHN H. EWING,  
E. L. BILL.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the eighth day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this eighth day of September, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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#### RIVERSIDE GLASS WORKS.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Riverside Glass Works," for the purpose of manufacturing in the state of West Virginia glass and glassware in any and all its various forms, and of dealing in and selling the same, there and elsewhere; and making all the molds and tools required for manufacturing glass and glassware, and packages for packing the same; and any and all articles to attach to glassware when manufactured; and for the purpose of dealing within said state and elsewhere in patents pertaining to the manufacture of glass and glassware in all its various branches, and of buying and selling everywhere the rights to others; and for mining coal for the purpose of manufacturing glass and glassware; which corporation shall keep its principal office or place of business in the city of Wellsburg, in the county of Brooke, and state of West Virginia, and is to expire on the tenth day of September, one thousand eight hundred and ninety-nine. And for the purpose of forming said corporations we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one hundred dollars; and desire the privilege of increasing said capital by sales of additional shares, from time to time, to two hundred thousand (200,000) dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By John Dornan, of Wheeling, West Virginia, two shares;  
 Charles N. Brady, of Wheeling, West Virginia, two shares;  
 Jabez E. Ratcliffe, of Wheeling, West Virginia, two shares;  
 J. Flanagan, of Wheeling, West Virginia, two shares;  
 A. McGrail, of Wheeling, West Virginia, two shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this seventeenth day of September, in the year one thousand eight hundred and seventy-nine.

J. DORNAN,  
 CHARLES N. BRADY,  
 JABEZ E. RATCLIFFE,  
 J. FLANAGAN,  
 A. MCGRAIL.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the tenth day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this eighteenth day of September, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### WHEELING CENTRAL TELEPHONE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me; which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Wheeling Central Telephone Company," for the purpose of constructing and maintaining lines of telephones in the county of Ohio; which corporation shall keep its principal office and place of business at Wheeling, in the county of Ohio, and is to expire on the eighteenth day of September, A. D. one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of fifteen hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and fifty dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to one hundred thousand dollars in all.

The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned respectively as follows, that is to say:

By Earl W. Oglebay, of Wheeling, West Va., ten shares;  
 By R. T. Dovries, of Wheeling, West Va., ten shares;

By C. R. Tracy, of Wheeling, West Va., ten shares ;  
 By H. M. Russell, of Wheeling, West Va., ten shares ;  
 By Charles Dunlap, of Wheeling, West Va., ten shares ;  
 By S. R. Wells, of Wheeling, West Va., ten shares ;

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this eighteenth day of September, A. D. one thousand eight hundred and seventy-nine.

EARLE W. OGLEBAY.  
 R. T. DEVRIES.  
 C. R. TRACY,  
 H. M. RUSSELL.  
 CHARLES DUNLAP.  
 S. R. WELLS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the eighteenth day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this eighteenth day of September, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE TUSCARORA BUILDING ASSOCIATION NO. 2 OF MARTINSBURG, WEST VIRGINIA.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Tuscarora Building Association No. 2 of Martinsburg, West Virginia," for the purpose of accumulating money, to be loaned among its members for the purpose of purchase of land or houses, or for building or repairing the same or any other legitimate purpose ; which corporation shall keep its principal office or place of business at Martinsburg, in the county of Berkeley, state of West Virginia, and is to expire on the first day of September, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand six hundred and fifty dollars, to the capital stock thereof, and have paid in on said subscription the sum of one hundred and sixty-five dollars, and desire the privilege of increasing said capital by sales of additional shares, to the sum of one hundred and twenty thousand dollars. The capital so subscribed is divided into shares of one hundred and fifty

dollars each, which are held by the undersigned respectively, as follows :

G. W. Tabler, one share ;  
 E. S. Troxell, two shares ;  
 John B. Wilson, two shares ;  
 D. S. Noble, one share ;  
 A. J. Thomas, five shares ;  
 Alfred Beall, one share ;  
 Wm. M. Smurr, one share ;  
 Wm. Westrater, one share.

And the capital to be hereafter sold is to be divided into shares of of the like amount.

Given under our hands, this second day of September, one thousand eight hundred and seventy-nine.

G. W. TABLER,  
 E. S. TROXELL,  
 JOHN B. WILSON,  
 D. S. NOBLE,  
 A. J. THOMAS,  
 ALFRED BEALL,  
 WM. M. SMURR,  
 WM. WESTRATER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this nineteenth day of September, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### STERLING COAL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Sterling Coal Company," for the purpose of purchasing and leasing coal land and salt furnaces, mining coal, making salt and chemicals, and doing any and all things proper to the coal and salt business or convenient thereto, as the transportation to market and sale of their products and the purchase and sale of general merchandise ; which corporation shall keep its principal office or place of business at Clifton, in the county of Mason, and is to expire on the first day of October, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of

fifty thousand dollars to the capital thereof, and have paid in on said subscription the sum of fifty thousand dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By H. G. Daniel, of Pomeroy, Ohio, four hundred any sixty shares;  
 W. E. Edwards, of Mason county, W. Va., ten shares;  
 D. S. Stephenson, of Mason county, W. Va., ten shares;  
 George W. Plantz, of Mason county, W. Va., ten shares;  
 W. P. Rathburn, of Chattanooga, Tenn., ten shares,

And the capital to be hereafter sold, is to be divided into shares of like amount.

Given under our hands and seals, this second day of October, one thousand eight hundred and seventy-nine.

H. G. DANIEL,	[Seal.]
W. E. EDWARDS,	[Seal.]
D. S. STEPHENSON,	[Seal.]
GEO. W. PLANTZ,	[Seal.]
W. P. RATHBURN,	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of October, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this fourth day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### LITTLE FIRE CREEK COAL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Little Fire Creek Coal Company," for the purpose of mining, shipping and vending coal; manufacturing, shipping and vending coke, and of manufacturing iron; which corporation shall keep its principal office or place of business at Charleston, in the state of West Virginia, and to expire on the twenty-ninth day of September, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation, we have subscribed the sum of four thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of four hundred dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is divided into

shares of twenty-five dollars each, which are hold by the undersigned respectively as follows, that is to say :

William E. Truslow, of Charleston, West Virginia, forty shares ;

William T. Thayer, of Charleston, West Virginia, one share ;

William A. Quarrier, of Charleston, West Virginia, one share ;

James J. Lovell, of Kanawha Salines, West Virginia, forty shares ;

Samuel Christy, of Kanawha Salines, West Virginia, seventy-eight shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-ninth day of September, one thousand eight hundred and seventy-nine.

W. E. TRUSLOW,  
W. T. THAYER,  
WILLIAM A. QUARRIER,  
J. J. LOVELL,  
SAMUEL CHRISTY.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twenty-ninth day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this fourth day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

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### LONG REACH STAVE AND BARREL FACTORY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Long Reach Stave and Barrel Factory," for the purpose of manufacturing and dealing in all kinds of staves and heads, barrels, kegs and all articles manufactured of wood ; leasing, purchasing, holding and conveying real and personal property, manufacturing meal and flour ; constructing and running of steamboats and barges for freighting, towing and other purposes ; the purchase and sale of goods and supplies, and for such other purposes and operations as may be necessary to the economical and successful working of the enterprises named, or any of them ; which corporation shall keep its principal office or place of business at Long Reach, in the county of Tyler, and state of West Virginia, and is to expire on the nineteenth day of September, one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation we have subscribed the sum of two thousand and seventy dollars, and have paid in on said subscription the sum of



two thousand and fifty-two dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to thirty thousand dollars.

The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say:

By Wm. Martin, of Long Reach, Tyler county, W. Va., three shares;  
D. D. Johnson, of Long Reach, Tyler county, W. Va., one share;  
M. M. Johnson, of Long Reach, Tyler county, W. Va., two hundred shares;

Frederick M. Martin, of Long Reach, Tyler county, W. Va., one share;

Zenas Martin, of Long Reach, Tyler county, W. Va., two shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-seventh day of September, one thousand eight hundred and seventy-nine.

WM. MARTIN.  
D. D. JOHNSON.  
M. M. JOHNSON.  
F. M. MARTIN.  
ZENAS MARTIN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the nineteenth day of September, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this seventh day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## BELMONT NAIL COMPANY.

### INCREASE OF STOCK.

STATE OF WEST VIRGINIA, }  
OFFICE OF SECRETARY OF STATE. }

WHEREAS, A. W. Kelly, president of the Belmont Nail Company, a corporation created under the laws of the state of West Virginia, has certified under his signature and the common seal of said corporation, that at a meeting of the stockholders of said corporation, held in the city of Wheeling on the fifteenth day of October, one thousand eight hundred and seventy-nine, the following resolutions were adopted:

"Resolved, That the par value of the capital stock of the Belmont Nail Company be and the same is hereby increased to three hundred and ninety thousand eight hundred (390,800) dollars, and that

to that end the par value of each share of said stock be and the same is hereby increased to two hundred (200) dollars. Also,

"*Resolved*, That the president of this company do, under his signature and the common seal of the company, certify the foregoing resolution to the secretary of state."

Now, therefore, I, Sobieski Brady, secretary of state, of said state, do declare the increase of the par value of said capital stock, as proposed by said resolution, to be authorized by law.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this fifteenth day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## HAMPSHIRE AND BALTIMORE COAL COMPANY.

### REDUCTION OF STOCK.

STATE OF WEST VIRGINIA, }  
OFFICE OF SECRETARY OF STATE. }

WHEREAS, J. George Ripplier, president of the Hampshire and Baltimore Coal Company, a corporation created under the laws of the state of West Virginia, has certified under his signature and the common seal of said corporation, that at a meeting of the stockholders of said corporation, held in the city of New York, on the sixteenth day of October, one thousand eight hundred and seventy-nine, the following resolutions were adopted:

*Resolved*, That the seven thousand four hundred and fifty shares of the capital stock of the Hampshire and Baltimore Coal Company, amounting to seventy-four thousand five hundred dollars, par value of its stock, heretofore acquired by said company, and standing in the names of E. L. Bollis and G. H. Potts, as trustees, for the company, be cancelled and extinguished, and the capital stock of the company reduced to that extent, and for that purpose that said trustees be directed to transfer the same to said company.

*Resolved*, That the Hampshire and Baltimore Coal Company accept the two thousand five hundred and fifty shares of its capital stock, upon the terms now offered to said company, thereby making, with the seven thousand four hundred and fifty shares, heretofore acquired, one hundred thousand dollars par value of said stock; and that when the same is acquired it be forthwith cancelled and extinguished.

*Resolved*, That the capital stock of the Hampshire and Baltimore Coal Company be reduced to two hundred thousand dollars, as follows, to-wit:

*First*—By the cancellation and extinguishment of one hundred thousand dollars thereof, as provided in the previous resolutions; and,

*Second*—By the reduction of the par value of the remainder of the capital stock, viz: four hundred thousand dollars from ten dollars to

five dollars per share, so that hereafter the capital stock of the company shall consist of forty thousand shares of five dollars per share.

Now, therefore, I, Sobieski Brady, secretary of state, of the state of West Virginia, do declare the reduction of the par value of said capital stock, as proposed by said resolutions, to be authorized by law.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-first day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THORNBURG MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation under chapter fifty-four of the code of West Virginia, and the laws relating thereto, by the name of the "Thornburg Mining Company," for the purpose of holding and mining gold, silver and other mining properties in the state of Colorado, and working, refining and disposing of said properties and their products; which corporation shall keep its principal office or place of business at Boston, in the county of Suffolk, and commonwealth of Massachusetts; and is to expire on the tenth day of October, A. D., one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of forty thousand dollars to the capital thereof; and have paid in on said subscriptions the sum of four thousand dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one thousand dollars each, which are held by the undersigned respectively as follows, that is to say:

By John G. Williams, twelve shares;

John Donovan, nine shares;

Dolphin D. Taylor, five shares;

All of whom are of Boston, in the county of Suffolk, and commonwealth of Massachusetts.

John Bailey, of Topsfield, Essex county, and said commonwealth, nine shares;

Mark Fulsom, Wakefield, Middlesex county and said commonwealth, five shares.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fourteenth day of October, one thousand eight hundred and seventy-nine.

JOHN G. WILLIAMS.  
JOHN DONOVAN.  
DOLPHIN D. TAYLOR.  
JOHN BAILEY,  
MARK FULSOM.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the tenth day of October, A. D. one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-second day of October,  
one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### WHEELING POTTERY COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Wheeling Pottery Company," for the purpose of manufacturing C.C. ware, iron stone china, porcelain ware, semi-porcelain ware, parian ware and all other kinds of crockery; mining, and the purchase and sale of merchandise; which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, in the state of West Virginia, and is to expire on the twenty-second day of October, A. D., one thousand eight hundred and ninety-nine; and for the purpose of forming the said corporation, we have subscribed the sum of seventy-five thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of seven thousand five hundred dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By George K. Wheat, of the city of Wheeling, in the county of Ohio and state of West Virginia, two hundred and fifty shares;

By Charles W. Franzheim, of the same city, county and state, one hundred and fifty shares;

By William A. Isett, of same city, county and state, one hundred and fifty shares;

By Edward M. Pearson, of same city, county and state, one hundred and fifty shares;

By John J. Jones, of same city, county and state, fifty shares.

All of whom reside in said city, county and state.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-second day of October, A. D. one thousand eight hundred and seventy-nine.

GEORGE K. WHEAT,  
CHARLES W. FRANZHEIM,  
WILLIAM A. ISETT,  
EDWARD M. PEARSON,  
JOHN J. JONES.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twenty-second day of October, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twenty-third day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### THE MONTAUK GAS COAL COMPANY.

STATE OF WEST VIRGINIA, }  
OFFICE SECRETARY OF STATE. }

I, Sobieski Brady, secretary of state, of the state of West Virginia, hereby certify under the act of the legislature of the state of West Virginia, approved the twenty-first day of December, one thousand eight hundred and seventy-five, that "The Montauk Gas Coal Company," a corporation created under the laws of the state of New York, have this day filed in my office a copy of their articles of association, and a copy of the law under which they are incorporation.

[G. S.] In testimony whereof, I have hereunto set my hand and affixed the great seal of the said state, at the city of Wheeling, this twenty-eighth day of October, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

### KEYSER MANUFACTURING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement, duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Keyser Manufacturing Company," for the purpose of manufacturing and dealing in wagons and carts, carriagos and buggies; wagon and carriage makers' material, wheelwright work and articles composed in whole or in part of wood or iron; which corporation shall keep its principal office or place of business at Keyser, in the county of Mineral, state of West Virginia, and is to expire on the eighth day of November, one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation we have subscribed the sum of two hundred and fifty dollars and have paid in on said shares the sum of twenty-five dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from

time to time, to fifty thousand dollars in all. The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned as follows:

Thomas B. Davis, Keyser, W. Va., two shares ;  
 Thomas E. McCoole, of Keyser, W. Va., two shares ;  
 Thomas R. Carskadon, of Keyser, W. Va., two shares ;  
 John Hughes, of Keyser, W. Va., two shares ;  
 Francis M. Reynolds, of Keyser, W. Va., two shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this the eighth day of November, one thousand eight hundred and seventy-nine.

THOMAS B. DAVIS.  
 THOMAS R. CARSKADON.  
 THOMAS E. MCCOOLE.  
 FRANCIS M. REYNOLDS.  
 JOHN HUGHES.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the eighth day of November, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this tenth day of November, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## BY-LAWS OF THE NEW RIVER RAILROAD, MINING AND MANUFACTURING COMPANY.

SECTION 1. The officers of the company shall consist of seven directors, one of whom shall be chosen president, to be chosen annually by a majority of the vote of the stockholders. The board of directors may fill vacancies in their body by electing any stockholder to serve until the next annual election. The board shall appoint a vice president from their number, a secretary and treasurer, and such other officers and agents as it may deem proper.

SEC. 2. Stated monthly meetings of the board shall be held at Philadelphia, on the second Wednesday of each month at one o'clock p. m., and a majority of the board shall constitute a quorum for the transaction of business. Special meetings of the board may be called by the president at such time and place as he shall designate, or at the request of a majority of the board.

SEC. 3. The president shall have power to appoint such committees as he may think proper. The president and vice-president shall be *ex-officio* members of all committees.

SEC. 4. The annual meetings of stockholders shall be held on the first Thursday in October in each year.

Adopted—Hinton, West Virginia, June fifteen, one thousand eight hundred and seventy-five.

Attest:

[Seal.]

T. B. ENGLISH, *Secretary.*

STATE OF WEST VIRGINIA, }  
OFFICE OF SECRETARY OF STATE. }

Received and admitted to record in the office of secretary of state this twenty-eighth day of November, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### KANSAS LAND AND WHEAT GROWERS' ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned, agree to become a corporation by the name of "Kansas Land and Wheat Growers' Association," for the purpose of buying lands in the state of Kansas, and raising wheat and all other farming products, and selling the same; also for the purpose of raising cattle, hogs, horses, sheep and other stock; which corporation shall keep its principal office or place of business at Wheeling, in the county of Ohio, and is to expire on the first day of December, one thousand eight hundred and ninety-nine. And for the purpose of forming the said corporation we have subscribed the sum of four hundred and fifty dollars to the capital thereof, and have paid in on said subscriptions the sum of forty-five dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to forty-five thousand dollars in all.

The capital so subscribed is divided into shares of ninety dollars each, which are held by the undersigned respectively, as follows, that is to say:

By Henry M. Mathews, one share;

T. P. Phillips, one share;

W. L. Bridges, one share;

Geo. R. Tingle, one share;

J. C. Alderson, one share;

All residents of Wheeling, W. Va., and the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this four day of June, one thousand eight hundred and seventy-nine.

HENRY M. MATHEWS.  
T. P. PHILLIPS.  
W. L. BRIDGES.  
GEO. R. TINGLE.  
J. C. ALDERSON.

Wherefore, the incorporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of December, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this fourth day of December, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## OHIO AND WEST VIRGINIA MINING AND MANUFACTURING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Ohio and West Virginia Mining and Manufacturing Company," for the purpose of mining coal, manufacturing salt, merchandising and manufacturing barrels; which corporation shall keep its principal office or place of business at Clifton, in the county of Mason, in the state of West Virginia, and is to expire on the first day of January, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one hundred and nine thousand five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred and nine thousand five hundred dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By F. G. Montague, Chattanooga, Tennessee, four hundred and ninety shares;

B. J. Rodmond, Mason county, West Virginia, two hundred and fifty-five shares;

John McCulloch, Jr., Point Pleasant, Mason county, West Virginia, one hundred and thirty shares;

John A. Hamilton, Gallipolis, Ohio, fifty shares;

C. W. Henking, Gallipolis, Ohio, ninety shares;

Samuel Bradberry, Middleport, Ohio, fifty shares;

Asa Bradbury, Kigersville, Ohio, thirty shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.



Given under our hands, this fifth day of December, in the year one thousand eight hundred and seventy-nine.

F. G. MONTAGUE,  
B. J. REDMOND,  
J. McCULLOCK, JR.,  
JOHN A. HAMILTON,  
C. W. HENKING,  
S. BRADBURY,  
ASA BRADBURY.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand eight hundred and ninety-nine a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this fifth day of December, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE PAJORITA MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Pajorita Mining Company," for the purpose of mining for gold, silver and other ores in the territory of Arizona, and extending into Mexico, including in said mining operations the reduction of the ores so mined as well as such as may be mined by others; the purchase and sale of ores and the right to hold lands either in fee simple or otherwise; to construct roads, railways and tramways; such mills and furnaces, with all requisite machinery and appliances for working the same, with all necessary outbuildings; with houses for workmen as may be requisite for successfully conducting such mining operations; with a store or stores with sufficient stocks for supplying miners or others with all necessary goods, provisions and mining supplies which are incident to or connected with mining, reducing and marketing such ores and bullion. Said corporation shall keep its principal office or place of business at Chicago, in the county of Cook, and in the state of Illinois, with the power to establish branches at other points within the territory of Arizona, and is to expire on the first day of January, A. D. one thousand nine hundred; and for the purpose of forming the said corporation, we have subscribed the sum of fifty thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of five thousand dol-

lars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is divided into shares of ten dollars each, and is held by the undersigned respectively as follows, that is to say:

Archibald McArthur, Chicago, Illinois, two thousand five hundred shares;

James McArthur, Chicago, Illinois, one thousand five hundred shares;

George A. Head, Chicago, Illinois, five hundred shares;

Charles H. Foster, Chicago, Illinois, two hundred and fifty shares;

Abraham V. Hartwell, Chicago, Illinois, two hundred and fifty shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-fourth day of December, A. D. one thousand eight hundred and seventy-nine.

ARCHIBALD MCARTHUR,

JAMES MCARTHUR.

GEORGE A. HEAD.

CHARLES H. FOSTER.

ABRAHAM V. HARTWELL.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this third day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### MONITOR BOAT CLUB.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Monitor Boat Club," for the purpose of owning boats, barges, boat houses and furniture, and encouraging boating and gymnastic exercises generally; which corporation shall keep its principal office or place of business in the city of Wheeling, Ohio county, West Virginia, and is to expire on the thirty-first day of December, A. D. one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation, we have subscribed the sum of one hundred and twenty-five dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty dollars, and desire the privilege of

increasing the said capital by sales of additional shares, from time to time, to two thousand dollars in all.

The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned respectively as follows, that is to say:

By Louis Pracht, Jr., one share ;  
 Havey Fee, one share ;  
 James Mills, one share ;  
 William Dobler, one share ;  
 Howard Fee, one share.

All of the city of Wheeling.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this thirty-first day of December, A. D. one thousand eight hundred and seventy-nine.

LOUIS PRACHT, JR.  
 HARVEY FEE.  
 JAMES MILLS.  
 WILLIAM DOBLER.  
 HOWARD FEE.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the thirty-first day of December, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirty-first day of December, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

#### REYMANN'S BREWING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Reymann's Brewing Company," for the purpose of manufacturing and selling malt liquors, which corporation shall keep its principal office or place of business at Wheeling, in the county of Ohio, and is to expire on the thirty-first day of December, A. D., one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of ten thousand dollars to the capital thereof, and have paid in on said subscription the sum of one thousand dollars, and desire the privilege of increasing the said capital by sales of ad-

ditional shares, from time to time, to three hundred thousand dollars in all.

The capital so subscribed is divided into shares of one hundred and dollars each, which are held by the undersigned, respectively, as follows, that is to say :

By A. Reymann, of Wheeling, W. Va., sixty shares ;  
 Henry Hess, of Wheeling, W. Va., ten shares ;  
 Fred. Happy, of Wheeling, W. Va., ten shares ;  
 August Walter, of Wheeling, W. Va., ten shares ;  
 Charles Schmidt, of Wheeling, W. Va., ten shares.

And the capital hereafter to be sold is to be divided into shares of like amount.

Given under our hands, this thirty-first day of December, one thousand eight hundred and seventy-nine.

A. REYMANN,  
 H. HESS,  
 FREDERICK HAPPY,  
 AUGUST WALTER,  
 CHARLES SCHMIDT.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the thirty-first day of December, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this thirty-first day of December, one thousand eight hundred and seventy-nine.

SOBIESKI BRADY,  
*Secretary of State.*

## THE WALDORF IRON COMPANY.

STATE OF WEST VIRGINIA, }  
 OFFICE OF SECRETARY OF STATE. }

I, Sobieski Brady, secretary of state of the state of West Virginia, hereby certify, under the act of the legislature of the state of West Virginia, approved the twenty-first day of December, one thousand eight hundred and seventy-five, that "The Waldorf Iron Company," a corporation created under the laws of the state of New York, has this day filed in my office a copy of their articles of association and a copy of the law under which they are incorporated.

[G. S.] In testimony whereof, I have hereunto set my hand and affixed the great seal of the said state, at the city of Wheeling, this fifth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### THE MANUFACTURERS' FIRE INSURANCE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Manufacturers' Fire Insurance Company," for the purpose of insuring against all fire and marine risks, and discounting bonds, notes and other securities; which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, in the state of West Virginia, and is to expire on the first day of January, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to the sum of five hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

Michael Reilly, one share ;  
 Geo. R. Tingle, one share ;  
 Thos. O'Brien, one share ;  
 Lucius Hoge, one share ;  
 Jacob R. Greer, one share ;  
 Henry K. List, one share ;  
 George Hook, one share ;  
 Thos. H. Logan, one share ;  
 Louis C. Stifel, one share ;  
 J. C. Alderson, one share.

All residents of Wheeling, West Virginia.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this ninth day of January, one thousand eight hundred and eighty.

HENRY K. LIST.  
 JACOB R. GREER.  
 GEO. R. TINGLE.  
 GEORGE HOOK.  
 THOS. O'BRIEN.  
 M. REILLY.  
 LUCIUS HOGE.  
 THOS. H. LOGAN.  
 LOUIS C. STIFEL.  
 J. C. ALDERSON.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one-

thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this tenth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### ALLEN OIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Allen Oil Company," for the purpose of boring for oil and constructing and laying down pipe lines for the conveyance of the same to the Elk or Kanawha rivers ; for the purpose of buying, shipping and vending oil, and of refining the same ; for the purpose of letting and leasing the territory of the company to other operators, and for doing all things that are legitimate and proper for an oil company to do and perform ; which corporation shall keep its principal office, or place of business, at Charleston, in the county of Kanawha, West Virginia, and is to expire on the first day of January, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand and twenty dollars to the capital thereof, and have paid in on said subscriptions the sum of one thousand and twenty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifteen thousand dollars in all.

The capital so subscribed is divided into shares of thirty dollars each, which are held by the undersigned respectively, as follows, that is to say :

By Joseph Smith, Charleston, West Virginia, two shares ;  
N. D. Cabell, Hardscribe, West Virginia, one share ;  
A. T. Cabell, Hardscribe, West Virginia, one share ;  
E. S. Arnold, Charleston, West Virginia, one share ;  
Amos Allen, Charleston, West Virginia, two shares ;  
F. W. Abney, Charleston, West Virginia, one share ;  
John H. Rosler, Charleston, West Virginia, one share ;  
Silas Morgan, Charleston, West Virginia, one share ;  
W. A. Quarrier, Charleston, West Virginia, one share ;  
W. E. Truslow, Charleston, West Virginia, one share ;  
J. P. Hale, Charleston, West Virginia, two shares ;  
W. B. Donnally, Charleston, West Virginia, one share ;  
Hamilton Morris, Charleston, West Virginia, one share ;  
Charles Capoto, Charleston, West Virginia, one share ;  
N. S. Burlew, Charleston, West Virginia, one share ;

W. A. Kelly, Charleston, West Virginia, one share ;  
 M. V. Smith, }  
 Wm. Gilligan, } Charleston, West Virginia, one share ;  
 David Betts, Charleston, West Virginia, two shares ;  
 J. M. Payne, Charleston, West Virginia, one share ;  
 N. V. Coleman, Charleston, West Virginia, one share ;  
 F. C. Quarrier, Charleston, West Virginia, two shares ;  
 C. C. Lewis, Charleston, West Virginia, one share ;  
 Charles Ward, Charleston, West Virginia, one share ;  
 Hedge Slack, Charleston, West Virginia, two shares ;  
 Ed. S. Irwin, Charleston, West Virginia, one share ;  
 John S. Swann, Charleston, West Virginia, one share ;  
 Noyes Rand, Charleston, West Virginia, one share ;  
 Philip Frankenberger, Charleston, West Virginia, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this first day of January, one thousand eight hundred and eighty.

WM. A. QUARRIER,  
 CHARLES WARD,  
 JOSEPH SMITH,  
 AMOS ALLEN,  
 E. S. IRWIN,  
 PHILIP FRANKENBERGER,  
 JOHN H. ROSLER,  
 W. E. TRUSLOW,  
 N. S. BURLEW,  
 JOHN S. SWANN,  
 F. W. ABNEY,  
 E. S. ARNOLD,  
 SILAS MORGAN,  
 M. V. SMITH,  
 N. V. COLEMAN,  
 HAMILTON MORRIS,  
 W. B. DONNALLY,  
 W. A. KELLEY,  
 CHARLES CAPETO,  
 CHARLES C. LEWIS,  
 DAVID BETTS,  
 H. SLACK,  
 J. P. HALE,  
 J. M. PAYNE,  
 F. C. QUARRIER,  
 A. T. CABELL,  
 N. B. CABELL,  
 WM. GILLIGAN,  
 NOYES RAND.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thou-

and nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twelfth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### NOVELTY GLASS COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation under the name of "Novelty Glass Company," for the purpose of manufacturing and selling glassware, and making all molds and tools for manufacturing glassware, packages for packing the same, and pots and any articles required to attach to glassware when manufactured, and for the prosecution of any business that may be necessary in connection therewith. The said corporation shall have its principal office or place of business in the town of Wellsburg, Brooke county, in the state of West Virginia, and is to expire on the fifth day of January, A. D., one thousand eight hundred and ninety.

And for the purpose of forming said corporation, we have subscribed the sum of fifteen thousand (15,000) dollars, and have paid in on said subscriptions the sum of fifteen hundred (1,500) dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to thirty-five thousand (35,000) dollars in all.

The capital so subscribed is divided into shares of the par value of one hundred (100) dollars each, and shares of that denomination shall be divided among the undersigned corporators, according to the subscriptions made by them, respectively, as follows:

Edward I. Brown, of Wooster, Massachusetts, subscribes ten shares, one thousand dollars;

Charles H. Henderson, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

Edward C. Long, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

John Kunzler, of Pittsburgh, Pennsylvania, subscribes five shares, five hundred dollars;

Frederick Kainarth, of Pittsburgh, Pennsylvania, subscribes fifteen shares, fifteen hundred dollars;

James P. Fagon, of Pittsburgh, Pennsylvania, subscribes fifteen shares, fifteen hundred dollars;

David Barker, of Pittsburgh, Pennsylvania, subscribes fifteen shares, fifteen hundred dollars;

Charles Bryson, Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;



Jacob A. Rose, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

William H. Morgan, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

John F. Genken, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

Frederick Louis, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

Charles Louis, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars;

William L. Thomas, of Pittsburgh, Pennsylvania, subscribes ten shares, one thousand dollars.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fifth day of January, in the year of our Lord, one thousand eight hundred and eighty.

EDWARD J. BROWN,  
CHARLES H. HENDERSON,  
EDWARD C. LONG,  
JOHN KUNZLER,  
JAMES FAGON,  
FREDERICK KAINARTH,  
DAVID BARKER,  
CHARLES BRYSON,  
JACOB A. ROSE,  
WILLIAM H. MORGAN,

Attest: (William F. Robb.)

JOHN F. <sup>his</sup> GENKEN,  
mark.

FRED LOUIS,

Attest: (William F. Robb.)

CHARLES <sup>his</sup> LOUIS,  
mark.

WILLIAM L. THOMAS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the fifth day of January, one thousand eight hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirteenth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### BENWOOD COAL WORKS.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by

the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Benwood Coal Works" for the purpose of mining, shipping, selling and dealing in coal and other minerals, and of manufacturing, shipping, selling and dealing in coke, and for the further purpose of doing any other business which may be, by said corporation deemed necessary or advantageous in carrying out the main purposes of its organization as herein set out. Which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, and state of West Virginia, and is to expire on the eighth day of January, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof; and have paid in on said subscriptions the sum of fifty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By John J. Jones, of Wheeling, West Virginia, one share;

Joshua Burley, of Belmont county, Ohio, one share;

Lewis M. Cole, of Baltimore, Maryland, one share;

Charles T. Cowan, of Wheeling, West Virginia, one share;

Robert Cowan, of Wheeling, West Virginia, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this eighth day of January in the year one thousand eight hundred and eighty.

JOHN J. JONES.

JOSHUA BURLEY.

LEWIS M. COLE.

C. T. COWAN.

ROBERT COWAN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the eighth day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-first day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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### STANDARD NAIL AND IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied

by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Standard Nail and Iron Company," for the purpose of mining iron and other ores, transporting and selling the same and of working the same into sponge, pig, bar iron, steel, or otherwise; and of manufacturing iron and other ores into all the various branches and uses for which iron and other ores are employed, and of transporting the same and selling it, and of working it into all the various forms, branches, and uses for which the same may be used, and also for the purpose of developing, working, transporting and selling coal, minerals, chemicals, wood timber, marble, rock, grain and other products of the land and soil, as to them shall seem meet; and also for the purpose of dealing in general merchandise, and for any other purposes or business useful to the public for which a firm or copartnership may be lawfully formed in the state of West Virginia and not prohibited in a corporation under the laws of said state; which corporation shall keep its principal office or place of business at Clifton, Mason county, West Virginia, and is to expire on the first day of January, A. D.; one thousand nine hundred. And for the purpose of forming said corporation we have subscribed the sum of seventy-five thousand dollars to the capital thereof, and have paid in on said subscription the sum of seventy-five thousand dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to five hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

J. B. Green, Portsmouth, Ohio, one share;

Chas. H. Green, Ferrol, Va., two hundred and forty-eight shares;

Wm. S. Green, Portsmouth, Ohio, two hundred and fifty shares;

Joseph R. Dunlap, Portsmouth, Ohio, one share;

Wm. H. Allen, Brooklyn, N. Y., two hundred and fifty shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-seventh day of December, one thousand eight hundred and seventy-nine.

JARED B. GREEN.

CHAS. H. GREEN.

WM. S. GREEN.

JOSEPH R. DUNLAP.

WM. H. ALLEN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-third day of January,  
one thousand eight hundred and eighty.

SOBIESKI BRADY,  
Secretary of State.

## INTERNATIONAL REAL ESTATE SOCIETY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "International Real Estate Society," for the purpose of acting as a medium between the citizens of West Virginia and Switzerland, Germany and Central Europe, for the purpose of procuring the emigration of Swiss, German and French settlers to the state of West Virginia; selecting and procuring homes for said emigrants, and affording them protection in their purchase of lands and settlement upon the same; and in their procurement of supplies; and in their full and complete enjoyment of civil, social and religious rights; which corporation shall keep its principal office or place of business at Charleston, Kanawha county, West Virginia, and is to expire on the nineteenth day of January, Anno Domini one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand two hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and twenty dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Emanuel D. Ludwig, Switzerland, two shares;

Herman Kirchoff, Switzerland, two shares;

Alexander F. Mathews, Lewisburg, West Virginia, two shares;

Charles C. Lewis, Charleston, West Virginia, two shares;

William A. Quarrier, Charleston, West Virginia, two shares;

Clarkson C. Watts, Charleston, West Virginia, two shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this the nineteenth day of January, one thousand eight hundred and eighty.

EMANUEL D. LUDWIG,  
HERMAN KIRCHHOFF,  
ALEX. F. MATHEWS,  
CLARKSON C. WATTS,  
CHARLES C. LEWIS,  
WILLIAM A. QUARRIER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the nineteenth day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-sixth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

UNITED STATES CAPITOL ELECTRIC LIGHT SUPPLY  
COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "United States Capitol Electric Light Supply Company," for the purpose of making, selling and furnishing electric lights for the use of cities, streets, public buildings, private houses etc., and for manufacturing machinery therefor. Which corporation shall keep its principal office or place of business at the city of Washington, in the District of Columbia, and is to expire on the first day of January one thousand nine hundred, A. D. And for the purpose of forming the said corporation we have subscribed the sum of twenty-five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of two hundred and fifty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By Horace Little, of Ridgeway, Elk county, Pa., five shares;

By Frederick P. Stanton, of Washington D. C., five shares;

By James J. Newell, of Washington, D. C., five shares;

By John Poole, of Washington, D. C., five shares;

By Doctor W. Bliss, of Washington, D. C., five shares;

And the capital stock to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this second day of January, A. D., one thousand eight hundred and eighty.

HORACE LITTLE.

FRED. P. STANTON.

D. W. BLISS.

J. J. NEWELL.

JOHN POOLE.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my band and the great seal of the said state, at the city of Wheeling, this twenty-ninth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

BUILDING ASSOCIATION NO. 5

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the

proper affidavits has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Building Association No. 5," for the purpose of raising money to be used among the members of such corporation in buying lots or houses, or in building or repairing houses; which corporation shall keep its principal office or place of business at Charlestown, in the county of Jefferson, and is to expire on the first day of January, one thousand eight hundred and ninety. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand three hundred dollars to the capital stock thereof, and have paid in on said subscription the sum of one hundred and thirty dollars; and desire the privilege of increasing said capital, by sales of additional shares, from time to time, to two hundred and sixty thousand dollars in all. The capital so subscribed is divided into shares of two hundred and sixty dollars each, which are held by the undersigned as follows, that is to say:

One share by each of the following parties:

Joseph Trapnell, one share;  
I. N. Simmons, one share;  
J. Garland Hurst, one share;  
David Howell, one share;  
George Baylor, one share;  
Joseph Goldsmith, one share.

All residents of Charlestown, West Virginia.

And the capital to be hereafter sold is to be divided into shares of of the like amount.

Given under our hands, this twenty-sixth day of January, one thousand eight hundred and eighty.

JOSEPH TRAPNELL,  
I. N. SIMMONS,  
J. GARLAND HURST,  
DAVID HOWELL,  
GEORGE BAYLOR,  
JOSEPH GOLDSMITH.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand eight hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-ninth day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### NAIL CITY LANTERN COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by

the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Nail City Lantern Company," for the purpose of manufacturing and dealing in lamps and lanterns and all manner of illuminating devices, and for the purpose of manufacturing and dealing in all kinds of stamped tin ware, and of selling all of said manufactured articles, whether manufactured by said company in whole or in part, or by others; which corporation shall keep its principal office or place of business at the city of Wheeling, in the county of Ohio, and is to expire on the twenty-ninth day of January, in the year one thousand nine hundred, and for the purpose of forming the said corporation, we have subscribed the sum of twenty thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of forty-five hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By Archibald W. Paull, of Wheeling, W. Va., ninety-nine shares;  
 Samuel Laughlin, of Wheeling, W. Va., forty-nine shares;  
 Alexander Laughlin, of Wheeling, W. Va., fifty shares;  
 Henry O. Ott, of Wheeling, W. Va., one share;  
 William J. Quinn, of Wheeling, W. Va., one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this thirtieth day of January, in the year one thousand eight hundred and eighty.

ARCHIBALD W. PAULL.  
 SAM'L LAUGHLIN.  
 ALEXANDER LAUGHLIN.  
 HENRY O. OTT.  
 WILLIAM J. QUINN.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twenty-ninth day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirty-first day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE GERRARDSTOWN TANNING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Gerrardstown Tanning Company," for the purpose of buying and selling hides, manufacturing hides into leather, selling, storing and exchanging said leather for all kinds of produce, lumber, bark, etc., and to purchase certain real estate in and near the town of Gerrardstown, Berkeley county, West Virginia, not exceeding twenty-five acres, and erecting thereon buildings suitable for the manufacturing of leather of every description, and for grinding bark and the preparation of sumac, and for a general tanning business. The whole to be used by the said corporation for mutual profit; which corporation shall keep its principal office or place of business at Gerrardstown, Berkeley county, West Virginia, and is to expire on the first day of January, A. D. one thousand nine hundred. And for the purpose of forming the said corporation we have subscribed the sum of three thousand and twenty-five (3,025) dollars to the capital thereof, and have paid in on said subscription the sum of three hundred and two dollars and fifty cents, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to twenty thousand dollars in all. The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned respectively as follows, that is to say :

G. W. McKown, forty shares ;  
 J. P. Carter, twenty shares ;  
 John S. Bowers, thirty shares ;  
 Charles H. Miller, twenty-one shares ;  
 M. J. C. Hoffman, ten shares ;

All of Gerrardstown district, Berkeley county, West Virginia.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands and seals this thirtieth day of January, one thousand eight hundred and eighty.

G. W. McKOWN. [Seal.]  
 J. P. CARTER. [Seal.]  
 JOHN S. BOWERS. [Seal.]  
 CHAS. H. MILLER. [Seal.]  
 M. J. C. HOFFMAN. [Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirty-first day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### MOUNDSVILLE IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the



proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Moundsville Iron Company," for the purpose of smelting iron ores and manufacturing rails and spikes for railroads, nails, sheet iron, hoop, rod and bar iron, galvanizing iron and the manufacture of rolled iron generally; which corporation shall keep its principal office or place of business at Moundsville, in the county of Marshall, and is to expire on the twenty-eighth day of January, one thousand nine hundred. And for the purpose of forming said corporation we have subscribed the sum of five hundred dollars, and have paid in on said subscription the sum of fifty dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively as follows, that is to say :

By Charles W. McCormick, of Cleveland, Ohio, two shares;

By Nelson E. Whitaker, of Wheeling, two shares;

By Horace R. Abbott, of Wheeling, two shares;

By Edwin C. Ewing, of Wheeling, two shares;

By Lott H. Joy, of Wheeling, two shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-eighth day of January, one thousand eight hundred and eighty.

CHARLES McCORMICK,  
N. E. WHITAKER,  
HORACE R. ABBOTT,  
EDWIN C. EWING,  
LOTT H. JOY.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twenty-eighth day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this thirty-first day of January, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### KANAWHA REPUBLICAN COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Kanawha Republican Company," for the purpose of establishing,

printing, and maintaining a republican newspaper and job printing office in the city of Charleston, West Virginia. Which corporation shall keep its principal office or place of business in said city, and is to expire on the first day of January, one thousand eight hundred and ninety. And for the purpose of forming said corporation, we have subscribed the sum of nine hundred dollars to the capital stock thereof, and have paid in on said subscriptions the sum of ninety (90) dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to ten thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say:

By A. Burlew, of Charleston, ten shares;  
 By John S. Cunningham, of St. Albans, twenty shares;  
 By E. Atkinson, of Wheeling, twenty shares;  
 By A. F. Gibbons, of Charleston, twenty shares;  
 By H. M. Patton, of Lewiston, Pa., twenty shares.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands this thirtieth day of November, one thousand eight hundred and seventy-nine.

E. ATKINSON,	[Seal.]
JNO. S. CUNNINGHAM,	[Seal.]
A. BURLEW,	[Seal.]
A. F. GIBBONS,	[Seal.]
H. M. PATTON,	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this third day of February one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

## CHICAGO GALVANIZING AND CAR ROOFING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Chicago Galvanizing and Car Roofing Company," for the purpose of manufacturing, purchasing and selling roofing and siding for railroad cars and buildings; said roofing and siding to be manu-

factured from wood or sheet metal, or both, plain or corrugated, painted, enameled or galvanized. contracting for and placing said roofing upon cars and buildings, and the doing of a general galvanizing business; also the management and conduct of any other manufacturing enterprise in wood and iron. Which corporation shall keep its principal office, or place of business, at Chicago, Illinois, in the county of Cook, and is to expire on the fourth day of February, one thousand nine hundred. And for the purpose of forming said corporation, we have subscribed the sum of one thousand dollars to the capital stock thereof, and have paid in on said subscription the sum of one hundred dollars, and desire the privilege of increasing the said capital, by sales of additional shares; from time to time, to three hundred thousand dollars in all.

The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively, as follows, that is to say :

Arthur Van Norman, of Chicago, nine shares ;  
 B. C. Carpenter, of Chicago, eight shares ;  
 N. E. Whitaker, of Wheeling, one share ;  
 E. C. Ewing, of Wheeling, one share ;  
 Edward L. Pratt, of Wheeling, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fourth day of February, one thousand eight hundred and eighty.

ARTHUR VAN NORMAN,  
 B. C. CARPENTER,  
 N. E. WHITAKER,  
 E. C. EWING,  
 E. L. PRATT.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the fourth day of February, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this twentieth day of February, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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#### BENWOOD WORKINGMEN'S BUILDING AND LOAN ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the

"Benwood Workingmen's Building and Loan Association," of Benwood, Marshall county, West Virginia, for the purpose of raising money to be loaned among the members of such corporation, for use in buying lots or houses, or in building or repairing houses; which corporation shall keep its principal office or place of business in Benwood, in the county of Marshall, state of West Virginia, and is to expire on the first day of April, one thousand eight hundred and ninety. And for the purpose of forming said corporation, we have subscribed the sum of seven hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of seventy dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By Frank McJilton, one share;  
 H. W. Fisher, one share;  
 Henry Bursee, one share;  
 Jos. Lindsley, one share;  
 Thomas B. Williams, one share;  
 James E. Barrett, one share;  
 John Deegan, one share.

All of the town of Benwood. And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fourth day of March, one thousand eight hundred and eighty.

[Signed,]

FRANK MCJILTON.  
 JAMES E. BARRETT.  
 JOS. LINDSLEY.  
 HENRY W. FISHER.  
 HENRY BURSEE.  
 JOHN DEEGAN.  
 THOMAS B. WILLIAMS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of April, one thousand eight hundred and ninety, a corporation by the name and and for the purpose set forth in said agreement.

(Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this fifth day of March, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### THE NATURAL HISTORICAL SOCIETY OF WEST VIRGINIA.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Natural Historical Society of West Virginia," for the purpose of

fostering and promoting the study of natural science; examining the resources of the country; giving attention to agriculture and horticulture, and erecting a museum; and for the purpose of holding and owning any real and personal property necessary or proper for the general objects of the society; which corporation shall keep its principal office or place of business at the city of Wheeling, county of Ohio, in the state of West Virginia, and is to expire on the sixteenth day of March, A. D. one thousand nine hundred; and for the purpose of forming the said corporation we have subscribed the sum of five hundred and ten dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty-one dollars; and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to sixty thousand dollars in all. The capital so subscribed is divided into shares of thirty dollars each, which are held by the undersigned respectively as follows, that is to say:

By A. Schaffranack, of Wheeling, West Virginia, one share;  
 Theodore Schreiber, of Wheeling, West Virginia, one share;  
 Albert F. Stifel, of Wheeling, West Virginia, one share;  
 A. Reymann, of Wheeling, West Virginia, one share;  
 J. Osterling, of Wheeling, West Virginia, one share;  
 H. Stamm, of Wheeling, West Virginia, one share;  
 C. Siebert, of Wheeling, West Virginia, one share;  
 F. Walter, of Wheeling, West Virginia, one share;  
 C. F. Ulrich, of Wheeling, West Virginia, one share;  
 E. F. Hennig, of Wheeling, West Virginia, one share;  
 C. A. Schaefer, of Wheeling, West Virginia, one share;  
 John Pfarr, of Wheeling, West Virginia, one share;  
 M. Golink, of Wheeling, West Virginia, one share;  
 H. F. Behrens, Wheeling, West Virginia, one share;  
 Charles Loeffler, of Wheeling, West Virginia, one share;  
 E. J. Wunderlich, of Wheeling, West Virginia, one share;  
 L. F. Thoma, of Wheeling, West Virginia, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this seventeenth day of March, A. D. one thousand eight hundred and eighty.

DR. A. SCHAFFRANACK,  
 THEODORE SCHREIBER,  
 ALBERT F. STIFEL,  
 JOHN OSTERLING,  
 CONRAD SEIBERT,  
 FRANK WALTER,  
 E. F. HENNIG, M. D.,  
 C. F. ULRICH,  
 C. A. SCHAEFER,  
 HENRY STAMM,  
 A. REYMANN,  
 JOHN PFARR,  
 MARIMUS GELINK,  
 H. F. BEHRENS,  
 CHARLES LOEFFLER,  
 E. J. WUNDERLICH,  
 L. F. THOMA.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the sixteenth day of March, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this nineteenth day of March, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### COMBINATION MANUFACTURING COMPANY OF HUNTINGTON.

I, Sobieski Brady, secretary of state of the state of West Virginia hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Combination Manufacturing Company of Huntington," for the purpose of manufacturing wood, iron, brass and other metals; which corporation shall keep its principal office or place of business at Huntington, in the county of Cabell, West Virginia, and is to expire on the thirty-first day of December, one thousand eight hundred and ninety-nine.

And for the purpose of forming the said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifty thousand dollars in all.

The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned respectively as follows, that is to say:

By Daniel C. Slone, eight shares, two hundred dollars;  
Morris C. Hungerford, of Huntington, eight shares;  
James G. Harper, eight shares;  
Miles T. Mathews, eight shares;  
James B. Stone, of Guyandotte, West Virginia, eight shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this thirty-first day of March, one thousand eight hundred and eighty.

DANIEL C. SLONE,  
MORRIS C. HUNGERFORD,  
JAMES G. HARPER,  
MILES T. MATHEWS,  
JAMES B. STONE.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby de-

clared to be from this date until the thirty-first day of December, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this third day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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CROWN HILL SPLINT COAL COMPANY, OF PAINT CREEK,  
WEST VIRGINIA.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Crown Hill Splint Coal Company, of Paint Creek, West Virginia," for the purpose of mining coal and other minerals, and selling and shipping the same, and doing a general mercantile business in connection therewith ; which corporation shall keep its principal office or place of business at Sandusky, Erie county, Ohio, with a branch office at Paint creek, Kanawha county, West Virginia, and is to expire on the first day of January, A. D., one thousand nine hundred (1900). And for the purpose of forming the said corporation, we have subscribed the sum of five thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of five hundred dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to fifty thousand dollars in all. The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively, as follows, to-wit :

Charles N. Ryan, Sandusky, Ohio, twenty (20) shares ;

John T. Johnson, Sandusky, Ohio, twenty (20) shares ;

Edgar J. Waye, Sandusky, Ohio, twenty (20) shares ;

Eleazer J. Ring, Saginaw, Michigan, twenty (20) shares ;

Mary S. Smith, Paint Creek, West Virginia, twenty (20) shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-fourth day of February, A. D. one thousand eight hundred and eighty.

CHARLES N. RYAN,  
EDGAR J. WAYE,  
JOHN T. JOHNSON,  
ELEAZER J. RING,  
MARY S. SMITH.

Wherefore, the incorporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand

and nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this sixth day of April, one thousand  
 eight hundred and eighty. SOBIESKI BRADY,  
*Secretary of State.*

### MASONIC HALL ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Masonic Hall Association," for the purpose of erecting a concert hall and lodge rooms; which corporation shall keep its principal office or place of business in Moundsville, Marshall county, West Virginia, and is to expire on the thirty-first day of December, A. D. one thousand eight hundred and ninety-nine. And for the purpose of forming said corporation, we have subscribed the sum of one thousand (1,000) dollars to the capital thereof, and have paid in on said subscription the sum of one hundred (100) dollars and desire the privilege of increasing said capital by sales of additional shares, from time to time, to ten thousand (10,000) dollars in all. The capital so subscribed is divided into shares of twenty-five (25) dollars each, which are held by the undersigned respectively as follows, that is to say:

Chas. A. Weaver, four shares, one hundred dollars;  
 William B. Humphreys, four shares, one hundred dollars;  
 Lewis B. Purdy, four shares, one hundred dollars;  
 Joseph B. McPeck, four shares, one hundred dollars;  
 John R. Davis, four shares, one hundred dollars;  
 Samuel C. Gans, four shares, one hundred dollars;  
 George Sigafoose, four shares, one hundred dollars;  
 William H. H. Showacre, four shares, one hundred dollars;  
 Johnson C. Lindsey, four shares, one hundred dollars;  
 Frank H. Blake, four shares, one hundred dollars;

All of whom are residents of Moundsville, Marshall county, West Virginia.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fifth day of April, one thousand eight hundred and eighty.

CHARLES A. WEAVER.  
 WILLIAM B. HUMPHREYS.  
 LEWIS B. PURDY.  
 JOSEPH B. McPEEK.  
 JOHN R. DAVIS.  
 S. C. GANS.  
 GEORGE SIGAFOOSE.  
 WILLIAM H. H. SHOWACRE.  
 JOHNSON C. LINDSEY.  
 FRANK H. BLAKE.



Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the thirty-first day of December, one thousand eight hundred and ninety-nine, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twelfth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### THE GRAFTON FURNITURE MANUFACTURING COMPANY

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Grafton Furniture Manufacturing Company," for the purpose of manufacturing furniture and selling the same, and for other general manufacturing purposes, and acquiring such real estate as may be necessary for the purposes of said business; which corporation shall keep its principal office at Grafton, in the county of Taylor, and state of West Virginia, and is to expire on the twenty-seventh day of April, A. D., one thousand nine hundred. And for the purpose of forming said corporation, we have subscribed the sum of seven hundred dollars, and have paid in on the said subscription the sum of seventy dollars, and desire the privilege of increasing the said capital by the sale of additional shares from time to time, to twenty-five thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

George M. Whitescarver, of Grafton, W. Va., two shares;  
Le Roy Cofran, of Grafton, W. Va., one share;  
E. L. Weisgerber, of Grafton, W. Va., one share;  
John L. Hecmer, of Grafton, W. Va., one share;  
John T. McGraw, of Grafton, W. Va., one share;  
Edward B. Bowie, of Wheeling, W. Va., one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our bands, this twenty-seventh day of April, one thousand eight hundred and eighty.

GEO. M. WHITESCARVER.  
LE ROY COFRAN.  
E. L. WEISGERBER.  
JOHN L. HECMER.  
J. T. MCGRAW.  
E. B. BOWIE.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twenty-seventh day of April, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this thirtieth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### NAIL CITY GLASS COMPANY.

I, Sobieski Brady, secretary of state of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Nail City Glass Company," for the purpose of manufacturing, buying and selling all kinds of glassware, and especially bottles, vials, flasks and fruit jars; which said corporation shall keep its principal office, or place of business, at Wheeling, in the county of Ohio, and is to expire on the twelfth day of April, A. D. one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of ten thousand (10,000) dollars to the capital thereof, and have paid in on said subscriptions the sum of one thousand (1,000) dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to fifty thousand (50,000) dollars in all.

The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned respectively, as follows, that is to say:

By Alfred Paull, of Wheeling, Ohio county, West Virginia, forty shares;

Harry W. McLure, of Wheeling, Ohio county, West Virginia, twenty-five shares;

G. W. Franzheim, of Wheeling, Ohio county, West Virginia, eight shares;

George Mathews, of Wheeling, Ohio county, West Virginia, five shares;

Hugh Sterling, of Wheeling, Ohio county, West Virginia, five shares;

Thomas Prince, of Wheeling, Ohio county, West Virginia, five shares;

J. A. Clyker, of Wheeling, Ohio county, West Virginia, five shares;

H. C. Bayha, of Wheeling, Ohio county, West Virginia, three shares;

T. J. Hugus, of Wheeling, Ohio county, West Virginia, two shares;

J. T. Hanes, of Martin's Ferry, Belmont county, Ohio, two shares.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twelfth day of April, A. D. one thousand eight hundred and eighty.

THOMAS PRINCE,  
ALFRED PAULL,  
G. W. FRANZHEIM,  
J. T. HANES,  
J. A. CLYKER,  
GEO. MATHEWS,  
H. STERLING,  
T. J. HUGUS,  
H. C. BAYHA,  
H. W. McLURE.

Wherefore, the corporators named in the agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twelfth day of April, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this thirteenth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE BOOM COMPANY OF KANAWHA FALLS.

I, Sobieski Brady, secretary of state of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Boom Company of Kanawha Falls," for the purpose of constructing, maintaining and operating one or more booms of the Great Kanawha river, the New river and Gauley river, at any point or points within eighty (80) rods below Rigg ferry on the Great Kanawha river below the Great Kanawha Falls, and the Narrow Falls at the head of New River basin, opposite the mouth of Gauley river, and on Gauley river between its mouth and the mouth of Rich creek, in Fayette county, West Virginia, and of stopping and securing logs, timber, lumber, staves, butts, railroad ties, and other floatables therein, and of performing upon said river, and their tributaries any and all the functions assigned to boom companies, by an act of the legislature of West Virginia, passed during the session of one thousand eight hundred and seventy-seven (1877), authorizing the formation of corporations for the purpose of constructing booms, etc., and for such other operations, purposes, etc., as may be lawful and accessory to the economical and successful working of the enterprises; which corporation shall have its principal office or place

of business at Kanawha Falls, in Fayette county, West Virginia, and it to commence on the first day of March, A. D., one thousand eight hundred and eighty, and is to expire on the first day of March, A. D., one thousand nine hundred and thirty.

And for the purpose of forming the said corporation, we have subscribed the sum of five thousand dollars to the capital thereof, and have paid in on said subscription the sum of five hundred dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to fifty thousand dollars in all.

The capital stock so subscribed shall be divided into shares of fifty dollars each, which are held by the undersigned, as follows, viz:

Charles Ellis Bardwell, of South Hadley Falls, Mass., fifty shares;

Gottfried Backus, of Saginaw City, Mich., thirteen shares;

John Backus, of Saginaw City, Mich., twelve shares;

Willie R. Binder, of Saginaw City, Mich., twenty-four shares;

William Binder, Saginaw City, Mich., one share.

And the capital stock hereafter sold to be divided into shares of like amount.

Given under our hands, this first day of March, A. D., one thousand eight hundred and eighty.

CHARLES E. BARDWELL,	(Seal.)
GOTTFREID BACKUS,	(Seal.)
JOHN BACKUS,	(Seal.)
WILLIE R. BINDER,	(Seal.)
WILLIAM BINDER.	(Seal.)

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from the first day of March, one thousand eight hundred and eighty, until the first day of March, A. D., one thousand nine hundred and thirty, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this sixteenth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### WEST VIRGINIA PRODUCERS' OIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "West Virginia Producers' Oil Company," for the purpose of mining for and producing petroleum oils; buying, selling, dealing in, storing, treating, refining, barreling and shipping, petroleum oils and the products thereof, and doing a general manufacturing and mercan-

tilo business; which corporation shall keep its principal office or place of business at Parkersburg, in the county of Wood, and state of West Virginia, and is to expire on the first day of April, one thousand nine hundred. And for the purpose of forming said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid on said subscriptions the sum of one hundred dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to fifty thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say:

By Richard H. Thomas, Parkersburg, W. Va., seventy-five shares;  
 Eliza H. Thomas, Parkersburg, W. Va., five shares;  
 William I. Boreman, Parkersburg, W. Va., five shares;  
 Charles D. Merrick, Parkersburg, W. Va., five shares;  
 Edward Rossman, Parkersburg, W. Va., ten shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fourteenth day of April, one thousand eight hundred and eighty.

RICHARD H. THOMAS.  
 ELIZA H. THOMAS.  
 W. I. BOREMAN.  
 CHARLES D. MERRICK.  
 EDWARD ROSSMAN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of April, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this seventeenth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### CO-OPERATIVE STORE.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of the "Co-operative Store," for the purpose of purchasing and vending all kinds of merchandise; which corporation shall keep its principal office or place of business at Wellsburg, in the county of Brooke, and the state of West Virginia, and is to expire on the fifteenth day of April, and in the year one thousand nine hundred. And for the

purpose of forming the said corporation we have subscribed the sum of fifty dollars to the capital thereof, and have paid in on said subscription the sum of five dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to ten thousand dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say:

By Anthony Brady, one share;  
 Peter Blankinsop, jr., one share;  
 W. H. Gelsthorpe, one share;  
 E. A. Chamberlain, one share;  
 Jacob Miller, one share.  
 All of Wellsburg.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fifteenth day of April, in the year one thousand eight hundred and eighty.

ANTHONY BRADY.  
 PETER BLANKINSOP, JR.  
 W. H. GELSTHORPE.  
 E. A. CHAMBERLAIN.  
 JACOB MILLER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the fifteenth day of April, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twentieth day of April, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### THE RITCHIE OIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Ritchie Oil Company." for the purpose of mining and producing petroleum oil, manufacturing and preparing the same and its products for market, and buying, selling, transporting, and storing said oil and its products; which corporation shall keep its principal office or place of business at Petroleum, Ritchie county, state of West Virginia, and is to expire on the twenty-third day of April, A. D. one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of six thousand dollars to the capital thereof, and have paid in the whole amount of said sub-

scription in full, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifty thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows, that is to say :

By George Rutherford, ten (10) shares ;

D. C. Pew, forty-five (45) shares ;

R. H. Rutherford, three (3) shares ;

John Cowan, one (1) share ;

S. Woodard, one (1) share.

All residents of the county and state aforesaid.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-third day of April, A. D. one thousand eight hundred and eighty.

GEORGE RUTHERFORD,  
D. C. PEW,  
R. H. RUTHERFORD,  
JOHN COWAN,  
S. WOODARD.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twenty-third day of April, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-seventh day of April,  
one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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### SOMES ICE MANUFACTURING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement, duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Somes Ice Manufacturing Company," for the purpose of producing ice artificially for general and domestic use; constructing, cooling, ventilating, refrigerating and warming buildings and departments, the manufacture, use and sale of coolers, refrigerators and other articles of manufacture; the preservation of food and other perishable substances; and with the intention of transacting any and all business properly pertaining thereto or calculated to facilitate the same; which corporation shall keep its principal office or place of business at Washington, in the District of Columbia, and is to expire on the twentieth day of March, one thousand nine hundred (A. D. 1900); and for the purpose of forming said corporation, we have subscribed the sum of two hundred thousand dollars to the capital thereof; and

have paid in on said subscription the sum of two hundred thousand dollars in patent rights. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows, that is to say:

Daniel Eaton Somes, of Washington, District of Columbia, one thousand two hundred shares;

John Hovey Rice, of Washington, District of Columbia, forty shares;

Henry Stevens Vanderbilt, of Washington, District of Columbia, thirty shares;

Frank Chase Somes, of Washington, District of Columbia, seven hundred shares;

Byron Somes, of Washington, District of Columbia, thirty shares.

Given under our bands and seals, this twentieth day of March, A. D. one thousand eight hundred and eighty.

DANIEL E. SOMES,	[Seal.]
JOHN H. RICE,	[Seal.]
HENRY S. VANDERBILT,	[Seal.]
FRANK CHASE SOMES,	[Seal.]
BYRON SOMES,	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twentieth day of March, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this tenth day of May, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### THE EUREKA DETECTIVE AGENCY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Eureka Detective Agency," for the purpose of detecting, arresting and bringing to justice persons who are charged with the commission of criminal offenses against the laws of any state or of the United States, or who are suspected to be guilty of crime; which corporation is to keep its principal office or place of business at Charleston, in the county of Kanawha, and is to expire on the ninth day of July, one thousand eight hundred and eighty-eight. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five thousand dollars in all. The capital so subscribed is divided into shares



of five dollars each, which are held by the undersigned respectively as follows, that is to say :

By Alf. W. Burnett, of Charleston, W. Va., ten shares ;

W. A. Wilson, of Charleston, W. Va., ten shares ;

J. C. Montgomery, of Cannelton, W. Va., ten shares ;

Joe Plymale, of Wayne C. H., W. Va., ten shares ;

James W. Dale, of Gallipolis, Ohio, ten shares ;

W. W. Williams, of Gallipolis, Ohio, ten shares ;

A. G. Stagg, of Parkersburg, W. Va., ten shares ;

C. C. Green, of St. Mary's, W. Va., ten shares ;

W. E. Herndon, of Hurrigan, W. Va., ten shares ;

F. T. Hughes, of Winfield, W. Va., ten shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-first day of April, one thousand eight hundred and eighty.

ALF. W. BURNETT.

M. W. WILLIAMS.

JOE PLYMALE.

J. W. DALE.

W. A. WILSON.

FLEMING T. HUGHES.

WM E. HERNDON.

J. C. MONTGOMERY.

A. G. STAGG.

C. C. GREEN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the ninth day of July, one thousand eight hundred and eighty-eight, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this fourteenth day of May, one thousand eight hundred and eighty.

SOBIESKI BRADY,

*Secretary of State.*

### PEABODY COAL COMPANY.

I, Sobieski Brady, secretary of state of West Virginia, hereby certify that an agreement duly acknowledged, and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Peabody Coal Company," for the purpose of mining, shipping, and vending coal, purchasing coal and re-selling the same, manufacturing coke and selling the same ; owning, running and navigating tow boats and barges ; sellings goods, wares and merchandise, by wholesale and retail ; owning, working and leasing coal lands, and generally to do all things necessary, proper, legal and incidental to the suc-

cessful mining and vending coal; which corporation shall keep its principal office or place of business at Charleston, in the county of Kanawha, and is to expire on the first day of June, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one thousand dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are hold by the undersigned respectively as follows, that is to say:

Daniel F. Connell, Portsmouth, Ohio, twenty shares;  
 George Straughan, Coal Valley, W. Va., twenty shares;  
 John H. Connell, Charleston, W. Va., twenty shares;  
 William A. Quarrier, Charleston, W. Va., thirty-nine shares;  
 Samuel A. Miller, Jr., Charleston, W. Va., one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this second day of June, one thousand eight hundred and eighty.

J. H. CONNELL.  
 D. F. CONNELL.  
 GEO. STRAUGHAN.  
 WM. A. QUARRIER.  
 SAM. A. MILLER,

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of June, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this seventh day of June, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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## THE BETTER TIMES MINING AND MILLING COMPANY

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned hereby agree to become a corporation under the laws of the state of West Virginia by the name of "The Better Times Mining and Milling Company," for the purpose of mining, reducing, milling and concentrating ores, in the state of Colorado, containing gold, silver, lead, copper, and other minerals; and for the purpose of purchasing, operating and selling mines and mills in said state of Colorado; and for the purpose of buying and selling ores of gold, silver, lead, copper and other minerals in said state of Colorado, and to buy,

sell, own and deal in any real or personal property necessary or convenient for the prosecution of the said business, and generally to do all things, requisite or incidental, to the the proper management thereof; which corporation shall keep its principal office or place of business at Boston, in the county of Suffolk, commonwealth of Massachusetts, and is to expire on June the first, A. D., one thousand nine hundred.

And for the purpose of forming said corporation, we have subscribed the sum of one hundred thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of ten thousand dollars, and desire the privilege of increasing the said capital by the sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively, as follows, that is to say:

By Asa G. Crosby, of Boston, Mass., three thousand shares;  
 Fred. Nourse, of Boston, Mass., three thousand shares;  
 George H. Toule, of Boston, Mass., three thousand nine hundred and ninety-eight shares;  
 Joseph P. B. Carlton, of Boston, Mass., one share;  
 Frank J. Tuttle, of Boston, Mass., one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this fourteenth day of June, A. D., one thousand eight hundred and eighty.

ASA G. CROSBY,  
 FRED. NOURSE,  
 GEORGE H. TOULE,  
 JOSEPH P. B. CARLTON,  
 FRANK J. TUTTLE.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of June, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this seventeenth day of June, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### NEW RIVER COAL AND COKE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "New River Coal and Coke Company," for the purpose of mining

coal and mining or winning any other mineral or substances found upon the lands hereafter to be acquired by them, to cut, work and ship timber; to manufacture iron or any other product that can be manufactured from iron, wood, salt, stone or clay; to let, demise or lease mineral lands and especially coal lands; to sell or purchase and use timber privileges; which corporation shall have its principal office or place of business at Hawk's Nest, in the county of Fayette, in West Virginia, and to expire on the twenty-fourth day of March, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five thousand dollars to the capital thereof, and have paid in on said subscription the sum of fifteen hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of twenty-five dollars each, which are held by the undersigned respectively as follows, that is to say:

Edward McMahan, Stanton, Va., ten shares;  
 J. R. Echols, Fire Creek, W. Va., ten shares;  
 Wm. G. Williams, Orange C. H., Va., ten shares;  
 J. M. Myles, Hawk's Nest, W. Va., ten shares;  
 R. J. Echols, Hawk's Nest, W. Va., twenty (20) shares.

And the capital stock to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-fourth day of March, one thousand eight hundred and eighty.

EDWARD McMAHON,  
 J. ROWLAND ECHOLS,  
 WM. G. WILLIAMS,  
 J. M. MYLES,  
 R. J. ECHOLS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the twenty-fourth day of March, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this thirtieth day of June, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### HOPE MILL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of

the "Hope Mill Company," for the purpose of manufacturing flour, feed, meal and other products from wheat, corn, rye, oats and other grains, and for the purpose of buying and selling such products and grains; which corporation shall keep its principal office or place of business, in the town of Farmington, in the county of Marion and state of West Virginia, and is to expire on the twelfth day of July, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed two thousand six hundred dollars to the capital stock thereof, and have paid in on said subscriptions the sum of six hundred dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to ten thousand dollars in all.

The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively, as follows, that is to say :

J. W. Swisher, Farmington, West Virginia, ten shares ;  
 Lough & Bock, Farmington, West Virginia, ten shares ;  
 Patrick Murphy, Farmington, West Virginia, five shares ;  
 J. F. Campbell, Farmington, West Virginia, six shares ;  
 W. W. Campbell, Farmington, West Virginia, four shares ;  
 I. S. Martin, Farmington, West Virginia, four shares ;  
 S. Carpenter, Farmington, West Virginia, four shares ;  
 W. H. Burns, Farmington, West Virginia, one share ;  
 J. V. Carpenter, Farmington, West Virginia, two shares ;  
 John W. Dudley, Farmington, West Virginia, six shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twelfth day of July, one thousand eight hundred and eighty.

J. W. SWISHER,  
 LOUGH & BOCK,  
 PATRICK MURPHY,  
 JAMES F. CAMPBELL,  
 W. W. CAMPBELL,  
 I. S. MARTIN,  
 S. CARPENTER,  
 W. H. BURNS,  
 J. V. CARPENTER,  
 JOHN W. DUDLEY.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twelfth day of July, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirteenth day of July, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
 Secretary of State.

## NEW ENGLAND IRON CLAD STEEL HORSE SHOE COMPANY

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "New England Iron Clad Steel Horse Shoe Company," for the purpose of using, introducing, selling and licensing others to use, introduce and sell horse shoe and toe calk-bars, horse shoe blanks, horse shoes, mule shoes, ox shoes and toe calks, composed and manufactured of combined iron and steel, under the several patented inventions, improvements and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania, and all reissues, extensions and improvements of such patented inventions hereafter made by said Wheeler, and also to establish and maintain all necessary agencies for carrying on said business; which corporation shall keep its principal office or place of business in Boston, county of Suffolk, state of Massachusetts, and to expire on the first day of July, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred (500) dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred (100) dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one million (1,000,000) dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows, that is to say :

By Tilly Haynes, of Boston, Massachusetts, one share ;  
 John H. Rice, of Washington, D. C., one share ;  
 Luther S. Wheeler, of Marlborough, Massachusetts, one share ;  
 Edward A. Gay, of Marlborough, Massachusetts, one share ;  
 John J. Williamson, of New York city, New York, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-sixth day of July, A. D. one thousand eight hundred and eighty.

LUTHER S. WHEELER,  
 TILLY HAYNES,  
 JOHN H. RICE,  
 EDWARD A. GAY,  
 JOHN J. WILLIAMSON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of July, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirtieth day of July, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
 Secretary of State.

## OHIO IRON CLAD STEEL HORSE SHOE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Ohio Iron Clad Steel Horse Shoe Company," for the purpose of using, introducing, selling, and licensing others to use, introduce and sell horse shoe and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes and toe calks, composed and manufactured of combined iron and steel, under the several patented inventions, improvements, and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania, and all re-issues, extensions and improvements of such patented inventions hereafter made by said Wheeler; and also to establish and maintain all necessary agencies for carrying on said business; which corporation shall keep its principal office or place of business in Cleveland, county of Cuyahoga, state of Ohio, and is to expire on the first day of July, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million (1,000,000) dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned, respectively, as follows, that is to say:

By Edwin L. Lamb, of Chicago, Ill., one share;  
 Z. E. Franklin, of New York, N. Y., one share;  
 John H. Rice, of Washington, D. C., one share;  
 Oscar T. Earle, of Milford, Conn., one share;  
 Luther S. Wheeler, of Marlborough, one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-sixth day of July, one thousand eight hundred and eighty.

EDWARD L. LAMB.  
 ZELUS E. FRANKLIN.  
 JOHN H. RICE.  
 OSCAR T. EARLE.  
 LUTHER S. WHEELER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of July, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirtieth day of July one thousand eight hundred and eighty.

SOBIESKI BRADY,  
 Secretary of State.

NORTHWESTERN IRON CLAD STEEL HORSE SHOE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Northwestern Iron Clad Steel Horse Shoe Company," for the purpose of using, introducing, selling and licensing others to use, introduce and sell, horse shoe and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes and toe calks, composed and manufactured of combined iron and steel, under the several patented inventions, improvements and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania, and all re-issues, extensions, and improvements of such patented inventions hereafter made by said Wheeler; and also to establish and maintain all necessary agencies for carrying on said business; which corporation shall keep its principal office or place of business in Chicago, county of Cook, state of Illinois, and to expire on the first day of July, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred (500) dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred (100) dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million (1,000,000) dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

By Edwin L. Lamb, of Chicago, Ill., one share;  
 Z. E. Franklin, of New York, New York, one share;  
 Oscar T. Earle, of Milford, Conn., one share;  
 John H. Rice, of Washington, D. C., one share.  
 Edward A. Gay, of Malborough, Mass., one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-sixth day of July, one thousand eight hundred and eighty.

EDWARD L. LAMB,  
 ZELUS E. FRANKLIN,  
 OSCAR T. EARLE,  
 JOHN H. RICE,  
 EDWARD A. GAY:

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of July, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirtieth day of July, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
 Secretary of State.



## RELIEF TOW BOAT COMPANY.

I. Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Relief Tow Boat Company," for the purpose of buying and navigating tow boats, barges and flats, and carrying on a general freighting business, and of buying, transporting and selling coal, coke, salt, fire brick, sewer pipe, lumber, railroad ties, tan bark, staves, hoop poles, and such other articles as the company may desire; which corporation shall keep its principal office or place of business at New Cumberland, in the county of Hancock, and state of West Virginia, and is to expire on the first day of May, A. D. one thousand nine hundred. And for the purpose of forming the said corporation we have subscribed the sum of fifteen hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of one hundred and fifty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifty thousand dollars in all.

The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively as follows, that is to say:

By Buckner I. Smith, of New Cumberland, in the county of Hancock, and state of West Virginia, three shares;

By Thomas T. Garlick, of New Cumberland aforesaid, thirteen shares;

By Hugh L. Irwin, of Freeman's Landing, in the state of West Virginia, two shares;

By James Porter, of New Cumberland, aforesaid, ten shares;

By James M. Porter, of New Cumberland, aforesaid, two shares.

All of the undersigned reside at New Cumberland, in the county of Hancock, and state of West Virginia, except Hugh L. Irwin, who resides at Freeman's Landing, in said state.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this seventh day of August, A. D. one thousand eight hundred and eighty.

BUCKNER J. SMITH.  
THOMAS J. GARLICK.  
HUGH L. IRWIN.  
JAMES PORTER.  
JAMES M. PORTER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of May, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this tenth day of August, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

## THE LEADER PUBLISHING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Leader Publishing Company," for the purpose of publishing and issuing a daily and weekly papers, and for doing all kinds of job printing and book binding; which corporation shall keep its principal office, or place of business, at Wheeling, West Virginia, in the county of Ohio, and is to expire on the first day of January, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of twenty thousand dollars to the capital thereof, and have paid in on said subscription the sum of two thousand dollars; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one hundred thousand dollars in all.

The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned respectively, as follows, that is to say:

By C. C. Johnson, of Wheeling, West Virginia, one hundred and ninety-five (195) shares;

C. H. Odbert, of Wheeling, one (1) share;

Thomas H. B. Haase, of Wheeling, one (1) share;

D. B. McIlwaine, of Wheeling, one (1) share;

S. R. Hayden, of Wheeling, one (1) share;

J. C. Alderson, of Wheeling, one (1) share.

And the capital hereafter to be sold is to be divided into shares of like amount.

Given under our hands, this thirteenth day of August, one thousand eight hundred and eighty.

C. C. JOHNSON,  
C. H. ODBERT,  
T. H. B. HAASE,  
D. B. McILWAINE,  
SAM'L R. HAYDEN,  
J. C. ALDERSON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this thirteenth day of August, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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 CHARLESTON COAL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by

proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Charleston Coal Company," for the purpose of mining, shipping and selling coal, and of manufacturing, shipping and selling coke, for general merchandizing, and for all other purposes necessary for the convenient and advantageous transaction of the business of said corporation, and incident thereto ; which corporation shall keep its principal office at Charleston, in the county of Kanawha, West Virginia, and is to expire on the first day of May, one thousand nine hundred.

And for the purpose of forming the said corporation we have subscribed the sum of three thousand (3,000) dollars to the capital thereof, and have paid in on said subscription the sum of one thousand dollars and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to twenty thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

L. F. Donnally, of Charleston, W. Va., ten shares ;

W. E. Truslow, of Charleston, W. Va., five shares ;

C. Hedrick, of Charleston, W. Va., three shares ;

Philip H. Noyes, of Charleston, W. Va., two shares ;

James H. Fry, agent, of Charleston, W. Va., ten shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this sixteenth day of August, one thousand eight hundred and eighty (1880.)

L. F. DONNALLY,  
W. E. TRUSLOW,  
JAMES H. FRY, (Agent,)  
C. HEDRICK,  
P. H. NOYES.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of May, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twenty-third day of August, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE MARION OIL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Marion Oil Company," for the purpose of boring for, mining

and producing petroleum, obtaining and marketing the same; which corporation shall keep its principal office or place of business at the town of Mannington, in the county of Marion, and state of West Virginia, and is to expire on the sixth day of September, A. D. one thousand eight hundred and ninety. And for the purpose of forming the said corporation, we have subscribed the sum of twenty-five hundred dollars, and have paid in on said subscription the whole of said sum of twenty-five hundred dollars, and desire the privilege of increasing said capital by the sale of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Ulysses A. Clayton, of Marion county, W. Va., one share;  
 Charles E. Motter, of Marion county, W. Va., one share;  
 J. B. Motter, of Marion county, W. Va., one share;  
 Blackshere & Beaty, of Marion county, W. Va., one share;  
 Prichard, Hunt & Phillips, of Marion county, W. Va., one share;  
 Charles E. Wells, of Marion county, W. Va., one share;  
 A. W. & C. A. Prichard, of Marion county, W. Va., one share;  
 George Baker, of Marion county, W. Va., one share;  
 Margaret Burns, of Marion county, W. Va., one share;  
 Jacob N. Gould, of Marion county, W. Va., one share;  
 A. H. Parrish, of Marion county, W. Va., one share;  
 Furbee & Manley, of Marion county, W. Va., one share;  
 Fleming, Prichard & Starkey, of Marion county, W. Va., one share;  
 L. G. Robinson, of Marion county, W. Va., one share;  
 Marshall & Berger, of Armstrong county, Pa., ten shares;  
 J. M. Hartley, of Marion county, W. Va., one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this seventh day of September, A. D. one thousand eight hundred and eighty.

ULYSSES A. CLAYTON.  
 AMOS N. PARRISH.  
 GEO. E. BAKER.  
 A. N. PRICHARD.  
 JESSE HUNT.  
 E. F. PHILLIPS.  
 A. W. PRICHARD.  
 C. E. MOTTER.  
 CHAS. E. MANLEY.  
 J. B. MOTTER.  
 C. A. PRICHARD.  
 N. S. BEATY.  
 J. BLACKSHERE.  
 J. N. GOULD.  
 FLEMING, PRICHARD & STARKEY.  
 L. G. ROBINSON, per J. S. R.  
 CHAS. E. WELLS.  
 MARGARET BURNS.  
 J. M. HARTLEY.  
 MARSHALL & BERGER,  
 per C. H. BERGER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the sixth day of September, one thousand eight hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this eighteenth day of September,  
one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

### PENNSYLVANIA IRON CLAD STEEL HORSE SHOE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Pennsylvania Iron Clad Steel Horse Shoe Company," for the purpose of using, introducing, selling, and licensing others to use, introduce and sell horse shoes and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes, and toe calks composed and manufactured of combined iron and steel, under the several patented inventions, improvements and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania, and all re-issues, extensions, and improvements of such patented inventions hereafter made by said Wheeler, within and for the states of Pennsylvania, New Jersey and Delaware; and also to establish and maintain all necessary agencies for carrying on said business; which corporation shall keep its principal office or place of business in Philadelphia, county of Philadelphia, state of Pennsylvania, and is to expire on the first day of October, in the year one thousand nine hundred.

And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty (50) dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned, respectively, as follows, that is to say:

By John H. Rice, of Washington, D. C., one share;  
John J. Williamson, of Boston, Mass., one share;  
Morris H. Alberger, of Philadelphia, Pa., one share;  
Thomas B. Miller, of Philadelphia, Pa., one share;  
Edward C. Hancock, of New York City, N. Y., one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this fourteenth day of October one thousand eight hundred and eighty.

JOHN H. RICE,  
JOHN J. WILLIAMSON,  
EDWARD C. HANCOCK,  
MORRIS H. ALBERGER,  
THOMAS B. MILLER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of October, one thousand eight hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this eighteenth day of October one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### NEW YORK IRON CLAD STEEL HORSE SHOE COMPANY.

I, Sobieski Brady, secretary of state of the state of West Virginia hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "New York Iron Clad Steel Horse Shoe Company," for the purpose of using, introducing, selling and licensing others to use, introduce and sell horse shoe and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes, and toe calks, composed and manufactured of iron and steel, under the several patented inventions, improvements, and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania and all re-issues, extensions and improvements of such patented inventions hereafter made by said Wheeler, within and for the states of New York and Connecticut, and also to establish and maintain all necessary agencies for carrying on said business; which corporation shall keep its principal office or place of business in the city of New York, county of New York, and state of New York, and to expire on the first day of October, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is held by the undersigned respectively as follows, that is to say :

By John H. Rice, of Washington, D. C., one share;  
 Ware B. Gay, of Boston, Mass., one share;  
 George Lochman, of Malden, Mass., one share;  
 Edward C. Hancock, of New York City, N. Y., one share;  
 William B. Gedney, of Brooklyn, N. Y., one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this thirteenth day of October, one thousand eight hundred and eighty.

JOHN H. RICE,  
 WARE B. GAY,  
 GEO. LOCHMAN,  
 EDWARD C. HANCOCK,  
 WILLIAM B. GEDNEY.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of October, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this eighteenth day of October, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE ARIZONA GOLD AND SILVER MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Arizona Gold and Silver Mining Company," for the purpose of purchasing, owning and operating mining lands in Arizona and other territories of the United States, and such other and further things as are consistent with the name and charter of our company; which company shall keep its principal office at Steubenville, in the county of Jefferson, in the state of Ohio, and is to expire on the sixteenth day of October, A. D. one thousand nine hundred. And for the purpose of forming the corporation, we have subscribed the sum of sixty dollars to the capital thereof, and have paid in on said subscription the sum of six dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one million dollars in all. The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively, as follows, that is to say:

John P. Means, one share, ten dollars;  
 J. S. Foster, one share, ten dollars;  
 R. J. Beatty, one share, ten dollars;  
 Wm. Stewart, one share, ten dollars;  
 Arthur C. McKee, one share, ten dollars;  
 S. L. Reid, one share, ten dollars.

All residents of Steubenville, Ohio.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands and seals, this sixteenth day of July, A. D. one thousand eight hundred and eighty.

JOHN P. MEANS,	[Seal.]
J. S. FOSTER,	[Seal.]
R. J. BEATTY,	[Seal.]
WM. STEWART,	[Seal.]
ARTHUR C. MCKEE,	[Seal.]
S. L. REID.	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the sixteenth day of October, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this twentieth day of October, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

#### PINEY RIVER BRIDGE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Piney River Bridge Company," for the purpose of constructing a toll bridge in the county of Raleigh, state of West Virginia, across the Piney river near its mouth; which corporation shall keep its principal office, or place of business, at Raleigh Court House, in the county of Raleigh, and shall have perpetual succession.

And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscription the sum of fifty dollars, and desire the privilege of increasing said capital, by sales of additional shares, from time to time, to five thousand dollars in all.

The capital so subscribed is divided into shares of fifty dollars each,



which are held by the undersigned respectively, as follows, that is to say:

By Jas. T. McCreery, of Raleigh county, two shares;

E. Prince, of Raleigh county, two shares;

G. H. Prince, of Raleigh county, two shares;

John Beckley, of Raleigh county, two shares;

J. D. Carey, of Raleigh county, one share;

J. B. Ellison, of Raleigh county, one share.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this eighteenth day of September, one thousand eight hundred and eighty.

JAS. T. MCCREERY,

E. PRINCE,

GEO. H. PRINCE,

JOHN BECKLEY,

J. D. CAREY,

J. B. ELLISON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twenty-first day of October, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE MARLBOROUGH COMBINATION HORSE SHOEING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Marlborough Combination Horse Shoeing Company," for the purpose of using, and licensing others to use within the limits of the town of Marlborough, in the county of Middlesex, and commonwealth of Massachusetts; the following described materials and articles, composed and manufactured of combined iron and steel, under letters patents granted, and which may hereafter be granted to Elbridge Wheeler, of Philadelphia, to-wit: Horse shoe and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes and toe calks, and generally to do and carry on the business of blacksmithing and shoeing in the said town of Marlborough; which corporation shall have its principal office or place of business in said town of Marlborough,

county and state aforesaid, and is to expire on the first day of October, in the year one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed one thousand dollars to the capital thereof, and have paid in on said subscription the sum of one thousand dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to ten thousand dollars in all.

The capital so subscribed is divided into shares of ten (10) dollars each, which are held by the undersigned respectively as follows, that is to say :

Edward A. Gay, of said Marlborough, forty-six (46) shares ;

Ware B. Gay, of Boston, forty-seven (47) shares ;

Luther S. Wheeler, of Marlborough, five (5) shares ;

Fred A. Wheeler, of Marlborough, one (1) share ;

Edward H. Ellis, of Marlborough, one (1) share.

And the capital to be hereafter sold, is to be divided into shares of the like amount.

Given under our hands, at Marlborough aforesaid, this eighteenth day of October, A. D., one thousand eight hundred and eighty.

EDWARD A. GAY.

WARE B. GAY.

LUTHER S. WHEELER.

FRED A. WHEELER.

EDWARD H. ELLIS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of October, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state,  
[G. S.] at the city of Wheeling, this twenty-eighth day of October,  
one thousand eight hundred and eighty.

SOBIESKI BRADY,

*Secretary of State.*

#### KEYTSONE COAL COMPANY.

I, Sobieski Brady, secretary of state of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Keystone Coal Company," for the purpose of carrying on the business of mining, vending and shipping coal ; of manufacturing, coke and selling using or shipping the same ; of manufacturing pig iron or any of its products ; buying and selling goods in connection with said business upon any premises where such business is carried on ; of leasing any lands which said corporation may hereafter acquire, to

other persons for the purpose of carrying on any of said business operations, and of doing such other things as are legitimately necessary or auxiliary to a right method of conducting any business above named; which corporation shall keep its principal office or place of business at the city of Philadelphia, in the state of Pennsylvania, and is to expire on the first day of October in the year one thousand nine hundred A. D. And for the purpose of forming the said corporation, we have subscribed the sum of twelve hundred dollars to the capital thereof, and have paid in on said subscription the sum of one hundred and twenty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one hundred and fifty thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

George Brooke, of Birdsboro, Pennsylvania, two shares ;

Mary B. I. Brooke, of Birdsboro, Pennsylvania, one share ;

Annie M. C. Brooke, of Birdsboro, Pennsylvania, one share ;

Kate M. P. Brinton, Philadelphia, Pennsylvania, one share ;

Joseph P. Brinton, Philadelphia, Pennsylvania, five shares ;

George Brooke, guardian, of Birdsboro, Pennsylvania, two shares.

And the capital stock to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-first day of October, one thousand eight hundred and eighty.

GEO. BROOKE,

MARY B. I. BROOKE,

ANNIE M. C. BROOKE,

J. P. BRINTON,

K. M. P. BRINTON,

GEO. BROOKE, *Guardian.*

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of October, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this thirtieth day of November, one thousand eight hundred and eighty.

SOBIESKI BRADY,

*Secretary of State.*

#### UNION OIL AND MANUFACTURING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of

"Union Oil and Manufacturing Company," for the purpose of manufacturing and refining cotton seed oil, and to sell and deal in its products; and also to establish and maintain all necessary agencies, for carrying on said business; which corporation shall keep its principal office or place of business in the city of Washington and District of Columbia, and to expire on the first day of September, in the year one thousand nine hundred. And for the purpose of forming said corporation, we have subscribed the sum of five hundred (500) dollars to the capital thereof, and have paid in on said subscription the sum of one hundred (100) dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to two hundred and fifty thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

- By Richard McAllister, of Washington, D. C., one share;
- By Robert F. Crowell, of St. Paul, Minnesota, one share;
- By Byron G. Daniels, of Washington, D. C., one share;
- By James E. Dexter, of Washington, D. C., one share;
- By Geo. E. Kirk, of Washington, D. C., one share.

And the capital to be hereafter sold is to be divided into shares of equal amount.

Given under our hands, this twenty-second day of November, A. D. one thousand eight hundred and eighty.

GEO. E. KIRK,  
ROBERT F. CROWELL,  
RICHARD McALLISTER,  
JAMES E. DEXTER,  
BYRON G. DANIELS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of September, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this third day of December, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

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### GREENBRIER WHITE SULPHUR SPRINGS COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Greenbrier White Sulphur Springs Company," for the purpose of

purchasing the White Sulphur Springs property, situated in the county of Greenbrier, West Virginia, and operating the same as a place of summer resort, for manufacturing and mining on said property, bottling and selling the waters of said springs, establishing and operating hotels, farming and grazing, merchandising, for constructing gas works, water works, and bath houses, and doing all business proper and appertaining to hotels and places of summer resort; which said company shall keep its principal office or place of business at said White Sulphur Springs, in the county aforesaid, and is to expire on the third day of December, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed to the capital stock thereof the sum of one hundred and fifty thousand (150,000) dollars, and have paid in on said subscriptions the sum of fifty thousand (50,000) dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million of dollars in all.

The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned, respectively, as follows, that is to say :

By William A. Stewart, of Saltville, Virginia, three hundred and seventy-five (375) shares ;

George L. Peyton, of White Sulphur Springs, West Virginia, three hundred and seventy-five (375) shares ;

J. N. Camden, of Parkersburg, West Virginia, one hundred and eighty-eight (188) shares ;

William P. Thompson, of Parkersburg, West Virginia, one hundred and eighty-seven (187) shares ;

Henry M. Mathews, of Lewisburg, West Virginia, three hundred and seventy-five (375) shares.

And the capital stock to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this third day of December, one thousand eight hundred and eighty.

W. A. STEWART.

GEO. L. PEYTON.

J. N. CAMDEN.

W. P. THOMPSON.

HENRY M. MATHEWS.

Teste :

JOHN WARFIELD, as to all the parties.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the third day of December, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this sixth day of December, one thousand eight hundred and eighty.

SOBIESKI BRADY,

*Secretary of State.*

## THE BLACK BARNET CONSOLIDATED MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Black Barnet Consolidated Mining Company," for the purpose of carrying on mining operations in Park county, state of Colorado; which corporation shall keep its principal office or place of business at Boston, county of Suffolk, commonwealth of Massachusetts, and is to expire on the first day of December, A. D., one thousand nine hundred.

And for the purpose of forming the said corporation we have subscribed the sum of five thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of five hundred dollars and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to two hundred and fifty thousand dollars in all.

The capital so subscribed is divided into shares of five dollars each, which are held by the undersigned respectively as follows, that is to say:

By C. L. Lightburn, of Weston, Lewis county, West Virginia, two hundred shares;

Thomas F. Collins, of Boston, Suffolk county, Massachusetts, two hundred shares;

Daniel U. Chamberlain, of Cambridge, Middlesex county, Massachusetts, two hundred shares;

Cornelius Dorr, of Cambridge, Middlesex county, Massachusetts, two hundred shares;

George A. Allison, of Cambridge, Middlesex county, Massachusetts, two hundred shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this first day of December, A. D. one thousand eight hundred and eighty.

CALVIN L. LIGHTBURN,  
THOMAS F. COLLINS,  
DAN'L U. CHAMBERLAIN,  
CORNELIUS DORR,  
GEORGE A. ALLISON.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of December, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this sixth day of December, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
Secretary of State.

## THE LAKE VALLEY MINING COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Lake Valley Mining Company," for the purpose of mining silver, gold, lead, and other metals, in the territory of New Mexico; which corporation shall keep its principal office or place of business, at the city of Washington, in the District of Columbia, and is to expire on the first day of December, one thousand nine hundred.

And for the purpose of forming the said corporation, we have subscribed the sum of one hundred thousand dollars, and have paid in on said subscription the sum of twenty-five thousand dollars; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to two hundred and fifty thousand dollars in all.

The capital so subscribed is divided into shares of one dollar each, which are held by the undersigned respectively, as follows :

George B. Chittenden, Washington, D. C., twenty-four thousand nine hundred and fifty-two shares, twenty-four thousand nine hundred and fifty-two dollars ;

Lester A. Bartlett, Washington, D. C., thirty-four thousand nine hundred and fifty three shares, thirty-four thousand nine hundred and fifty-three dollars ;

Story B. Ladd, Washington, D. C., twelve thousand four hundred and seventy-six shares, twelve thousand four hundred and seventy-six dollars ;

Halbert E. Paine, Milwaukee, Wisconsin, twelve thousand four hundred and seventy-six shares, twelve thousand four hundred and seventy six dollars ;

Jas. P. Welch, Avoca, Iowa, fifteen thousand one hundred and forty-three shares, fifteen thousand one hundred and forty-three dollars.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, at Washington, in the District of Columbia, this sixth day of December, one thousand eight hundred and eighty.

GEO. B. CHITTENDEN,  
LESTER A. BARTLETT,  
STORY B. LADD,  
HALBERT E. PAINE,  
JAMES P. WELCH.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of December, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this eighth day of December, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*

MECHANICS' BUILDING AND LOAN ASSOCIATION OF  
WELLSBURG.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

We, the undersigned, agree to become a corporation by the name of the "Mechanics' Building and Loan Association of Wellsburg," for the purpose of raising money to be loaned among the members of such corporation for use in buying lots or houses, or in building or repairing houses; which corporation shall keep its principal office or place of business in Wellsburg, in the county of Brooke, and state of West Virginia, and is to expire on the twenty-eighth day of December, one thousand eight hundred and ninety.

And for the purpose of forming the said corporation, we have subscribed the sum of seven hundred and fifty dollars to the capital stock thereof, and have paid in on said subscription the sum of seventy-five dollars; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to one hundred and fifty thousand dollars in all.

The capital so subscribed is divided into shares of one hundred and fifty dollars each, which are held by the undersigned respectively, as follows, that is to say:

J. E. Curtis, one share;  
W. G. Howard, one share;  
W. W. Clendenen, one share;  
Hugh Barth, one share;  
Henry C. Meyer, one share.

All of the town of Wellsburg, West Virginia.

And the capital hereafter to be sold is to be divided into shares of like amount.

Given under our hands, this twenty-seventh day of December, A. D. one thousand eight hundred and eighty.

(Signed.)

J. P. CURTIS,  
H. BARTH,  
H. C. MEYER,  
W. G. HOWARD,  
W. W. CLENDENEN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the twenty-eighth day of December, one thousand eight hundred and ninety, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this twenty-eighth day of December, one thousand eight hundred and eighty.

SOBIESKI BRADY,  
*Secretary of State.*



## THE CHARLESTON GAS LIGHT COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Charleston Gas Light Company," for the purpose of carrying on the business of manufacturing and selling electric light, gas, coke, coal tar, and all other products resulting from the manufacture of gas, of buying and selling gas pipe and fixtures and all the machinery and apparatus necessary for the manufacture and use of the electric light, and of doing such other things as are necessary or appurtenant to the business of manufacturing electric light and gas for lighting purposes, and of supplying and fitting out consumers with all the fixtures and appliances for using electric light and gas; which corporation shall keep its principal office or place of business at the city of Charleston, in Kanawha county, West Virginia, and is to expire on the first day of December, one thousand nine hundred. And for the purpose of forming said corporation we have subscribed the sum of thirty thousand dollars to the capital thereof, and have paid in on said subscription the sum of thirty thousand dollars, and desire the privilege of increasing said capital by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Meridith P. Ruffner, of Charleston, W. Va., fifty shares;  
 Andrew L. Ruffner, of Charleston, W. Va., fifty shares;  
 Frank Woodman of Charleston, W. Va., twenty shares;  
 J. W. M. Appleton, of Charleston, W. Va., eighty shares;  
 E. B. Knight, of Charleston, W. Va., one hundred shares.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this twenty-fourth day of December, one thousand eight hundred and eighty.

EDWARD B. KNIGHT,  
 FRANK WOODMAN,  
 JOHN W. M. APPLETON,  
 A. L. RUFFNER,  
 M. P. RUFFNER,

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of December, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this twenty-eighth day of December,  
 one thousand eight hundred and eighty.

SOBIESKI BRADY,  
 Secretary of State.

## PARKERSBURG CHEMICAL FIBRE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Parkersburg Chemical Fibre Company," for the purpose of manufacturing and selling wood and other fibres and of paper; which corporation shall keep its principal office or place of business at Parkersburg, in the county of Wood, and is to expire on the first day of January, one thousand nine hundred and one. And for the purpose of forming the said corporation, we have subscribed the sum of twenty thousand (20,000) dollars, to the capital stock thereof, and have paid in on said subscription the sum of two thousand (2,000) dollars and desire the privilege of increasing said capital, by sales of additional shares, from time to time, to one hundred thousand (100,000) dollars in all. The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned respectively as follows, that is to say:

Thomas H. Hulbert, of Parkersburg, one hundred shares;  
 John V. Rathbone, of Parkersburg, twenty shares;  
 Johnson N. Camden, of Parkersburg, ten shares;  
 William P. Thompson, of Parkersburg, ten shares;  
 William N. Chancellor, of Parkersburg, ten shares;  
 Henry C. Jackson, of Parkersburg, twenty-five shares;  
 George W. Thompson, of Parkersburg, twenty-five shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-seventh day of December, A. D. one thousand eight hundred and eighty.

THOMAS H. HULBERT,  
 JOHN V. RATHBONE,  
 WILLIAM P. THOMPSON,  
 JOHNSON N. CAMDEN,  
 WM. N. CHANCELLOR,  
 HENRY C. JACKSON,  
 GEORGE W. THOMPSON.

Wherefore, the incorporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred and one, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this third day of January, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
 Secretary of State.

## EAGLE MILL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of the "Eagle Mill Company," for the purpose of manufacturing flour, feed, meal and other products from wheat, rye, corn, oats and other grains, and for the purpose of buying and selling such products, grain, hay and straw ; which corporation shall keep its principal office or place of business at Parkersburg, in the county of Wood and state of West Virginia, and is to expire on the first day of January, in the year one thousand nine hundred and one. And for the purpose of forming such corporation, we have subscribed the sum of twelve thousand dollars to the capital thereof, and have paid in on said subscription the sum of twelve hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to thirty thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say :

Thomas A. Harris, Parkersburg, W. Va., forty-five shares,  
 Wesley H. Sharp, Volcano, W. Va., forty-five shares ;  
 Samuel M. Pollock, Parkersburg, W. Va., twenty shares ;  
 Charles C. Martin, Parkersburg, W. Va., five shares ;  
 Edward W. Staples, Volcano, W. Va., five shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this thirtieth day of December, one thousand eight hundred and eighty.

THOMAS A. HARRIS.  
 WESLEY H. SHARP.  
 SAMUEL M. POLLOCK.  
 CHARLES C. MARTIN.  
 EDWARD W. STAPLES.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this tenth day of January, one thousand eight hundred and eighty.

SO BIESKI BRADY,  
 Secretary of State.

## GAULEY RIVER IRON COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the

proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "Gauley River Iron Company," for the purpose of mining coal, iron, lead and other minerals; of felling and cutting timber, and selling or manufacturing the same into merchantable products, and in that behalf to acquire all such timber, mineral or other lands as may be advisable or expedient; which corporation shall keep its principal office or place of business at or near Gauley River Bridge, in the county of Fayette, state of West Virginia, and is to expire on the first day of January, A. D. one thousand nine hundred (1900).

And for the purpose of forming said corporation, we have subscribed the sum of fifty thousand (50,000) dollars to the capital stock thereof, and have paid in on said subscription the sum of five thousand (5,000) dollars, and desire the privilege of increasing the said capital by the sale of additional shares, from time to time, to one hundred thousand (100,000) dollars in all.

The capital so subscribed is divided into shares of one hundred (100) dollars each, which are held by the undersigned respectively, as follows, that is to say:

W. W. Culbertson, of Ashland, Kentucky, one hundred shares;

James F. Lewis, of Quinncmont, West Virginia, one hundred shares;

Benjamin J. Jordan, of Gauley Bridge, West Virginia, one hundred shares;

Robert S. Jordan, of Gauley Bridge, West Virginia, one hundred shares;

Adolph Pluemer, of Cincinnati, Ohio, one hundred shares.

Each of whom have, in good faith, paid ten per cent of the par value of the stock so respectively subscribed by them for the purposes and business of said intended corporation, without any intention or understanding that the same shall be withdrawn therefrom before the expiration or dissolution of said corporation.

And the capital to be hereafter sold is to be divided into like shares of one hundred dollars.

Given under our hands, this twenty-first day of December, A. D. one thousand eight hundred and eighty.

W. W. CULBERTSON,  
JAMES F. LEWIS,  
B. J. JORDAN,  
ROBERT S. JORDAN,  
ADOLPH PLUEMER.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this tenth day of January, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

## PACIFIC IRON CLAD STEEL HORSE SHOE COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Pacific Iron Clad Steel Horse Shoe Company," for the purpose of manufacturing, using, introducing, selling and licensing others to use, introduce and sell, horse shoe and toe calk bars, horse shoe blanks, horse shoes, mule shoes, ox shoes and toe calks, composed and manufactured of combined iron and steel, under the several patented inventions, improvements and processes of Elbridge Wheeler, of Philadelphia, Pennsylvania, and all re-issues, extensions, and improvements of such patented inventions hereafter made by said Wheeler within the states of California, Nevada and Oregon, and the territories of Washington, Arizona and Alaska ; and also to establish and maintain all necessary agencies for carrying on said business ; which corporation shall keep its principal office or place of business in Boston, state of Massachusetts, in San Francisco, state of California, and to expire on the first day of January, in the year one thousand nine hundred and one.

And for the purpose of forming the said corporation, we have subscribed the sum of five hundred dollars to the capital thereof, and have paid in on said subscriptions the sum of fifty dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to one million dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively, as follows, that is to say :

John H. Rice, of Washington, D. C., one share ;  
 Charles E. Parker, of Brookline, Mass., one share ;  
 John A. Henderson, of Wakefield, Mass., one share ;  
 John J. Williamson, of Boston, Mass., one share ;  
 Ware B. Gay, of Boston, Mass., one share.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this tenth day of January, A. D. one thousand eight hundred and eighty-one.

JOHN H. RICE,  
 C. E. PARKER,  
 JOHN A. HENDERSON,  
 JOHN J. WILLIAMSON,  
 WARE B. GAY.

Wherefore, The corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January,

one thousand nine hundred and one, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
[G. S.] at the city of Wheeling, this fourteenth day of January,  
one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

### POCOTALICO COAL MINING AND NAVIGATION COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Pocotalico Coal Mining and Navigation Company," for the purpose of mining, digging, or otherwise obtaining from the earth, iron ore, coal and other minerals, and lumber, and locking and daming Pocotalico river from Sissonville to its mouth, and charging tolls on the same, and transporting and vending said coal, iron, lumber, etc., and for the sale of goods and merchandise on the premises; the mining and other aforesaid operations of the said corporation are to be conducted and carried on upon the lands of the company in Putnam and Kanawha counties, in the state of West Virginia; the said corporation shall keep its principal office or place of business, at the city of Gallipolis, in the county of Gallia, in the state of Ohio, and is to expire on the first day of January, one thousand nine hundred, And for the purpose of forming the said corporation, we have subscribed the sum of seventy-five thousand dollars to the capital thereof, and have paid in on said subscription, the sum of eleven thousand and five hundred dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to five hundred thousand dollars in all.

The capital so subscribed is divided into shares of fifty dollars each, which are held by the undersigned respectively as follows, that is to say:

John C. Cooper, residing at Huntington, W. Va., three hundred and seventy-five shares;

Frederick Ford, residing at Gallipolis, Ohio, two hundred shares;

Fannie B. Ford, residing at Gallipolis, Ohio, one hundred and seventy-five shares;

John L. Vance, residing at Gallipolis, Ohio, three hundred and seventy-five shares;

Frank Bassett, residing at Winfield, W. Va., three hundred and seventy-shares.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this twenty-first day of February, one thousand eight hundred and eighty.

JOHN C. COOPER,  
FREDERICK FORD,  
FANNIE B. FORD,  
JOHN L. VANCE,  
FRANK BASSETT.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my band and the great seal of the said state, [G. S.] at the city of Wheeling, this fifteenth day of January, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

#### THE EUREKA COAL COMPANY.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of "The Eureka Coal Company," for the purpose of buying and leasing lands for coal purposes, mining and shipping coal and selling the same, erecting buildings and fixtures therefor, and for miners and employes, and for such other purposes as may be required to fully carry into effect the main purposes for which this corporation is being formed, viz, the mining, shipping and selling of coal; which corporation shall keep its principal office or place of business at Eureka Mines on Morris creek, in Fayette county, West Virginia, and is to expire on the first day of January, one thousand nine hundred. And for the purpose of forming said corporation, we have subscribed the sum of two thousand seven hundred dollars to the capital thereof, and have paid on said subscriptions the sum of two thousand seven hundred dollars, and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to ten thousand dollars in all. The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned respectively as follows, that is to say:

Thomas Waldron, three shares;  
James Reiley, three shares;  
James Miller, three shares;  
William Laws, three shares;  
Timothy Carroll, three shares;  
James Perks, three shares;

William McKenzie, three shares ;  
 George Martin, three shares ;  
 Arthur Richards, three shares ;  
 All of Coal Valley, Fayette county, West Virginia.

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, this tenth day of January, one thousand eight hundred and eighty-one.

THOMAS WALDRON,  
 TIMOTHY CARROLL,  
 JAMES REILEY,  
 JAMES PERKS,  
 JAMES MILLER,  
 WILLIAM MCKENZIE,  
 WM. LAWS,  
 GEORGE MARTIN,  
 ARTHUR RICHARDS.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 [G. S.] at the city of Wheeling, this thirty-first day of January,  
 one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

#### DOMESTIC GAS LIGHT COMPANY.

I, Sobieski Brady, secretary of state of West Virginia, hereby certify that an agreement duly acknowledged, and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "Domestic Gas Light Company," for the purpose of manufacturing and selling carburaters, gas, gas generators, gas pipe, gas fixtures, and all articles required in the manufacture and use of all kinds of illuminating gas, or gas used for heating purposes; which corporation shall keep its principal office or place of business at Boston, in the county of Suffolk, and commonwealth of Massachusetts, and is to expire on the first day of January, A. D. one thousand eight hundred and ninety-one. And for the purpose of forming said corporation, we have subscribed the sum of twenty thousand dollars to the capital thereof, and have paid in on said subscriptions the sum of two thousand dollars, and desire the privilege of increasing the said capital by sales of additional shares, from time to time, to fifty thousand dollars in all.



The capital so subscribed is divided into shares of ten dollars each, which are held by the undersigned respectively as follows, that is to say :

By Andrew F. Allen, Arlington, Massachusetts, four hundred shares;

Albion L. Mellon, Boston, Massachusetts, four hundred shares ;

Fred. Norrise, Boston, Massachusetts, four hundred shares ;

Henry Towle, Boston, Massachusetts, four hundred shares ;

George H. Towle, Boston, Massachusetts, four hundred shares ;

And the capital to be hereafter sold is to be divided into shares of the like amount.

Given under our hands, the twenty-eighth day of January, A. D. one thousand eight hundred and eighty-one.

ALBION L. MELLON.

FRED. NORRISE.

GEORGE H. TOWLE.

HENRY TOWLE.

ANDREW F. ALLEN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, A. D. one thousand eight hundred and ninety-one, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state, [G. S.] at the city of Wheeling, this first day of February, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

### BELMONT BUILDING ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "Belmont Building Association," for the purpose of raising money to be loaned among the members of such corporation, for use in buying lots or houses, or in building or repairing houses ; which corporation shall keep its principal office, or place of business, in Wheeling, in the county of Ohio, and is to expire on the first day of February, one thousand eight hundred and ninety-six. And for the purpose of forming said corporation, we have subscribed the sum of seven hundred and fifty dollars to the capital thereof, and have paid in on said subscription the sum of seventy-five dollars ; and desire the privilege of increasing the said capital, by sales of additional shares, from time to time, to six hundred thousand dollars.

The capital so subscribed is divided into shares of one hundred

and fifty dollars each, which are held by the undersigned respectively, as follows, that is to say:

By James McAdams, one share ;  
 By Thomas O'Brien, one share ;  
 By J. T. Hohman, one share ;  
 By William Myles, one share ;  
 By George G. Hannan, one share.

All of the city of Wheeling, West Virginia.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our bands, this first day of February, one thousand eight hundred and eighty-one.

JAMES McADAMS,  
 THOS. O'BRIEN,  
 JULIUS T. HOHMAN,  
 WM. MYLES,  
 GEO. G. HANNAN.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the first day of February, one thousand eight hundred and ninety-six, a corporation by the name and for the purpose set forth in said agreement.

Given under my hand and the great seal of the said state,  
 G. S.] at the city of Wheeling, this twelfth day of February, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

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#### WEST VIRGINIA EXPOSITION AND STATE FAIR ASSOCIATION.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by the name of the "West Virginia Exposition and State Fair Association," for the purpose of holding an industrial exposition, agricultural fair and horse fair at or near the city of Wheeling, West Virginia; which corporation shall keep its principal office or place of business at Wheeling, in the county of Ohio, and is to expire on the first day of January, one thousand nine hundred. And for the purpose of forming the said corporation, we have subscribed the sum of one hundred and twenty-five dollars to the capital thereof, and have paid in on said subscription the sum of twelve dollars and fifty cents, and desire the privilege of increasing said capital, by sales of additional shares, from time to time, to one hundred thousand dollars in all. The capi-

tal so subscribed shall be divided into shares of twenty-five dollars each, and are sold by the undersigned respectively as follows, that is to say :

By Geo. R. Tingle, one share, twenty-five dollars ;

Robert Campbell, one share, twenty-five dollars ;

Jos. Speidel, one share, twenty-five dollars ;

M. Reilly, one share, twenty-five dollars ;

M. L. Ott, one share, twenty-five dollars ;

All residents of Wheeling, Ohio county, West Virginia.

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands, this eighteenth day of February, A. D. one thousand eight hundred and eighty-one.

GEO. R. TINGLE,  
R. CAMPBELL,  
JOS. SPEIDEL,  
M. REILLY,  
M. L. OTT.

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be, from this date until the first day of January, one thousand nine hundred, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this eighteenth day of February, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
*Secretary of State.*

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### THE BUCKHANNON BANK.

I, Sobieski Brady, secretary of the state of West Virginia, hereby certify that an agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following :

The undersigned agree to become a corporation by the name of "The Buckhannon Bank." for the purpose of carrying on the business of banking in all its various branches, buying and selling gold and silver, United States bonds, bills of exchange, commercial paper, and other evidences of debt, loaning money on real or personal security, receiving money upon transient or special deposits, to issue certificates of loans and deposits for money deposited, and to pay interest upon the same, and generally to carry on such business as is usually carried on by a bank of discount and deposit; which corporation shall have its principal office or place of business at, Buckhannon, Upshur county, state of West Virginia, and is to expire on the fifteenth day of February, one thousand nine hundred and one.

And for the purpose of forming the said corporation, we have sub-

scribed the sum of twenty-five thousand dollars to the capital thereof, and have paid in on the said subscriptions the sum of twenty-five hundred (2,500) dollars, and desire the privilege of increasing the said capital by the sales of additional shares, from time to time, to one hundred thousand dollars in all.

The capital so subscribed is divided into shares of one hundred dollars each, which are held by the undersigned, respectively, as follows, that is to say :

By R. E. Hudkins, of Phillippi, W. Va., one hundred and fifty shares ;

D. D. T. Farnsworth, of Buckhannon, W. Va., twenty shares ;

C. F. Ridgway, of Buckhannon, W. Va., twenty shares ;

Levi Leonard, of Buckhannon, W. Va., twenty shares ;

Jacob W. Heavner, of Buckhannon, W. Va., twenty shares ;

G. A. Newlon, of Buckhannon, W. Va., twenty shares.

And the capital to be hereafter sold to be divided into shares of the like amount.

The above articles of association and agreement are made and entered into to enable us to avail ourselves of the advantage of chapter two hundred and fifteen of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-two and seventy-three.

Given under our hands and seals, this fifteenth day of February, one thousand eight hundred and eighty-one.

R. E. HUDKINS,	[Seal.]
D. D. T. FARNSWORTH,	[Seal.]
C. F. RIDGWAY,	[Seal.]
LEVI LEONARD,	[Seal.]
J. W. HEAVNER,	[Seal.]
G. A. NEWLON.	[Seal.]

Wherefore, the corporators named in the said agreement, and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the the fifteenth day of February, one thousand nine hundred and one, a corporation by the name and for the purpose set forth in said agreement.

[G. S.] Given under my hand and the great seal of the said state, at the city of Wheeling, this nineteenth day of February, one thousand eight hundred and eighty-one.

SOBIESKI BRADY,  
Secretary of State.

## WHEELING TOW BOAT AND BARGE COMPANY.

### NOTICE OF DISSOLUTION.

WHEELING, WEST VIRGINIA, }  
OFFICE OF WHEELING TOW BOAT AND BARGE COMPANY, }  
November 22, 1879. }

*Resolved*, That the business of the "Tow Boat and Barge Company" be voluntarily discontinued, and that the property and assets

that remain after paying all debts and liabilities of the corporation be divided among the stockholders.

A majority of the capital stock of said company was present and voted for said resolution of discontinuance at said meeting.

I, Edwin Hornbrook, president of the "Wheeling Tow Boat and Barge Company," do hereby certify to the secretary of the state of West Virginia, that the foregoing resolution received at a general meeting of the stockholders of said company held at the city of Wheeling, West Virginia, at the office of the "Wheeling Tow Boat and Barge Company" on the twenty-second day of November, A. D. one thousand seven hundred and seventy-nine, the votes of a majority of the capital stock of said company then and there represented by the stockholders in person or by proxies.

Witness at the city of Wheeling, West Virginia, my hand  
[SEAL.] and the common seal of said company.

EDWIN HORNBOOK,  
*President Wheeling Tow Boat and Barge Company.*

A copy—Teste :

SOBIESKI BRADY,  
*Secretary of State.*

## CONVENTION OIL COMPANY.

### DISSOLUTION.

At a meeting of the stockholders of the "Convention Oil Company," at the office of Daniel Peck, 1404 Chapline street, in the city of Wheeling, state of West Virginia, on the thirty-first day of March, one thousand eight hundred and eighty, a large majority of the stock of the said company being represented, and a large majority of the stock being voted, it was

*Resolved,* That the business of this corporation be discontinued, and that the proper notice be given in the *Daily Intelligencer*, of the city of Wheeling, six consecutive weeks, and that this resolution be properly certified to the secretary of state by the president of said corporation under its seal, which is now here done.

Witness my signature and seal of the said corporation.

[SEAL.]

M. REILLY,  
*President.*

A Copy—Teste :

SOBIESKI BRADY,  
*Secretary of State.*

## PATRONS' MERCHANDISE AND AGRICULTURAL STORE

## DISSOLUTION.

BOBTOWN, MARION COUNTY, W. VA., }  
 April 12th, 1879. }

*To the Honorable Secretary of State of West Virginia :*

SIR:—At a general meeting of the stockholders of the "Patrons' Merchandize and Agricultural Store," (a majority of the whole number of shares being represented), at the office of its secretary in Bobtown, the following resolution was carried :

*Resolved,* That the business of the above named joint stock company be discontinued from and after this date, April the twelfth, one thousand eight hundred and seventy-nine, and that the president thereof certify this resolution under seal to the secretary of the state of West Virginia, and that due notice thereof be published for six weeks in the *Fairmont Index*, a newspaper published in Fairmont, West Virginia.

[SEAL.]

JOHN RIGHTER,  
*President.*  
 JAS. T. MORRIS,  
*Secretary.*

A Copy—Teste:

SOBIESKI BRADY,  
*Secretary of State.*

## WHEELING FURNITURE COMPANY.

## NOTICE OF DISSOLUTION.

## OFFICE OF WHEELING FURNITURE COMPANY.

*To the Hon. Sobieski Brady, Secretary of State of West Virginia :*

At a general meeting of the stockholders of the Wheeling Furniture Company, held at their office on the thirtieth day of August, one thousand eight hundred and eighty, a majority of the stock being represented and voting, the following resolution was adopted :

*Be it Resolved,* That the Wheeling Furniture Company, by mutual consent, dissolves their partnership, from this day on, and that the board of directors are hereby authorized to settle all claims of the company, except the one which has been given to a special committee for settlement.

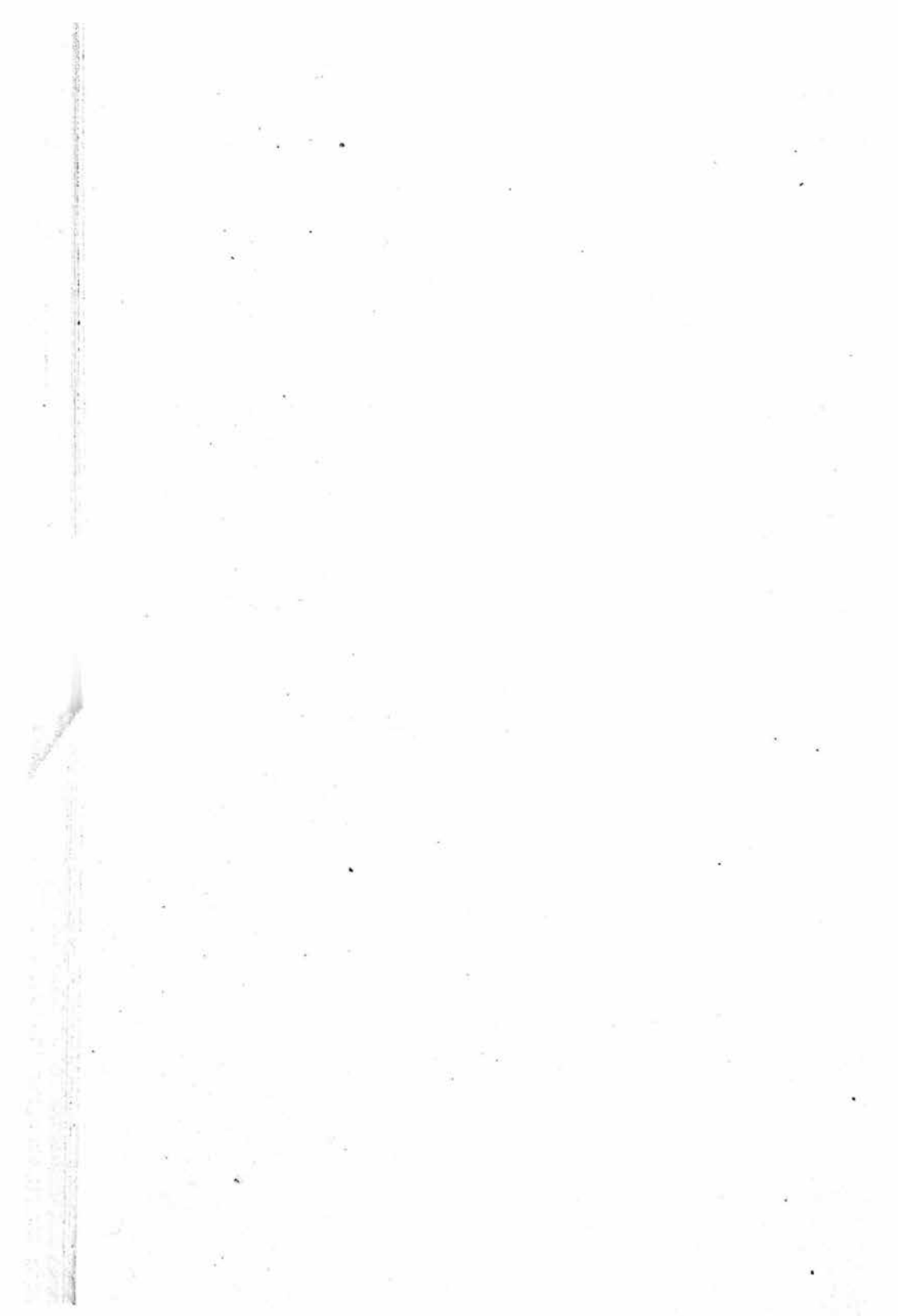
Witness our hand and the seal of said company, at the  
 [SEAL.] city of Wheeling, West Virginia, this second day of September, one thousand eight hundred and eighty.

AUGUST GUELKER,  
*President.*

AUG. G. SAUER,  
*Secretary.*

A copy—Teste:

SOBIESKI BRADY,  
*Secretary of State.*



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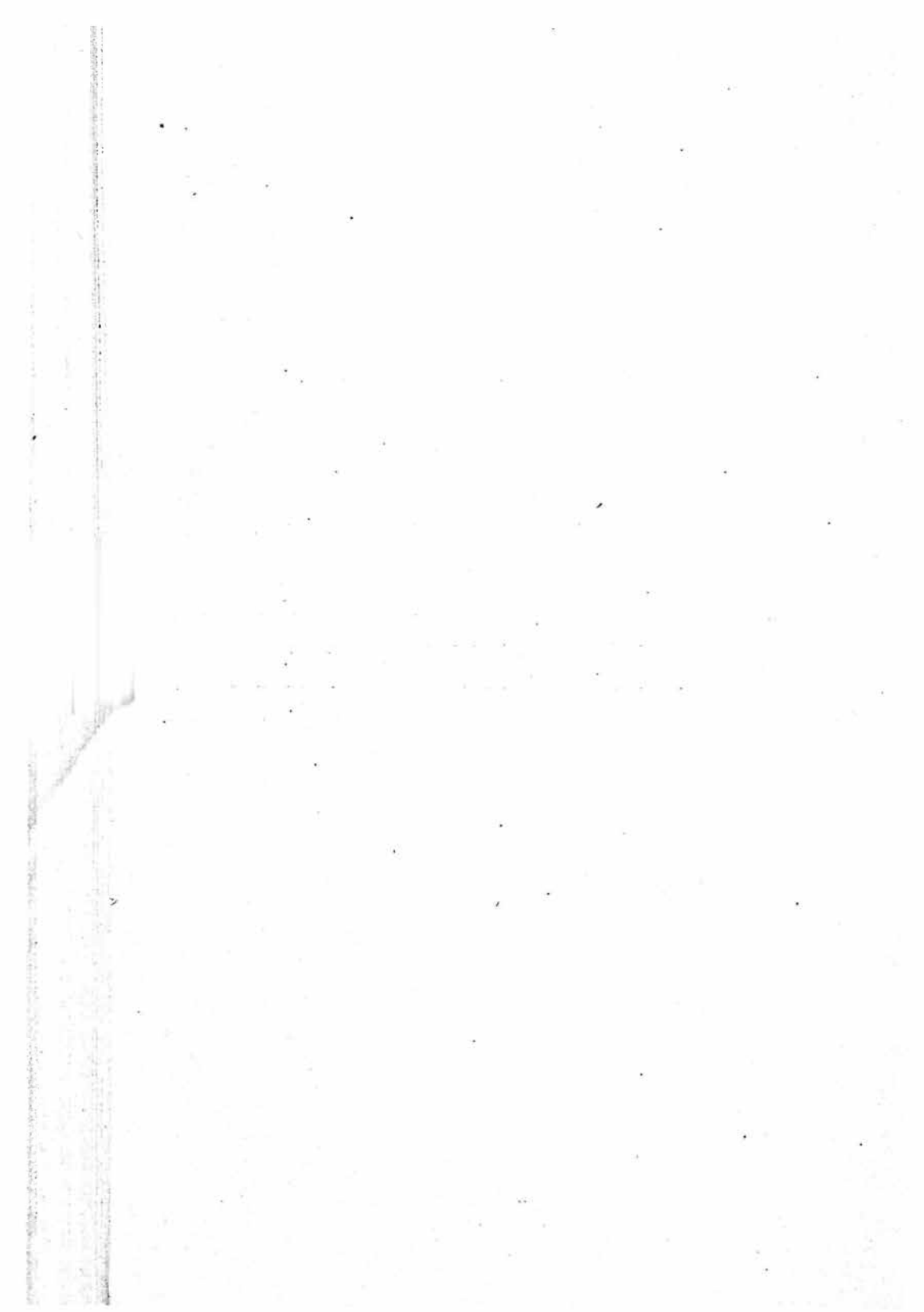
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A P P E N D I X .

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# LIST OF COMMISSIONERS

*In other States, appointed by the Executive of West Virginia, from the 1st day of January, 1879, to the 31st day of December, 1880, inclusive, with the residence and date of appointment of each Commissioner ; also, the date when evidence of qualification was filed. The term of Commissioner is for two years.*

STATES.	Names of Commissioners.	Residence.	Date of Appointment.	When Evidence of Qualification Filed.
Louisiana.....	Fred. Adolph.....	New Orleans.....	January 13, 1879	January 21, 1879
New York.....	George F. Lincoln.....	New York City.....	February 4, 1879	February 13, 1879
Massachusetts.....	Samuel Jennison.....	Boston .....	February 14, 1879	February 28, 1879
Kentucky.....	Harry Stucky.....	Louisville.....	February 14, 1879	February 18, 1879
New York.....	Richard M. Bruno.....	New York City.....	February 20, 1879	April 28, 1879
California.....	N. Proctor Smith.....	San Francisco.....	February 27, 1879	May 1, 1879
Pennsylvania.....	Henry Reed.....	Philadelphia.....	March 29, 1879	April 3, 1879
Maryland.....	Joseph T. Atkinson.....	Baltimore.....	April 10, 1879	April 15, 1879
Pennsylvania.....	Kinley J. Tener.....	Philadelphia.....	April 11, 1879	April 16, 1879
New York.....	E. B. Hart.....	New York City.....	May 5, 1879	May 14, 1879
New York.....	Charles Edgar Mills.....	New York City.....	May 5, 1879	May 5, 1879
New York.....	Wm. H. Clarkson.....	New York City.....	June 2, 1879	.....
Massachusetts.....	Joseph B. Braman.....	Boston.....	June 7, 1879	June 27, 1879
Maryland.....	Henry R. Dulany.....	Baltimore.....	June 24, 1879	July 11, 1879
New York.....	N. Pendleton Schenck.....	New York City.....	June 27, 1879	July 1, 1879
New York.....	James Taylor.....	New York City.....	July 9, 1879	July 22, 1879
Pennsylvania.....	Theodore D. Rand.....	Philadelphia.....	August 14, 1879	August 22, 1879
Dist. of Columbia.....	Jos. T. K. Plaut.....	Washington.....	August 14, 1879	.....
New York.....	Wm. F. Lett.....	New York City.....	August 14, 1879	October 16, 1879
Pennsylvania.....	Wm. F. Robb.....	Pittsburgh.....	August 21, 1879	August 26, 1879
New York.....	Thomas Kilvert.....	New York City.....	August 22, 1879	September 1, 1879
Maryland.....	Murray Hanson.....	Baltimore.....	August 30, 1879	September 8, 1879

## COMMISSIONERS.

## COMMISSIONERS—CONTINUED.

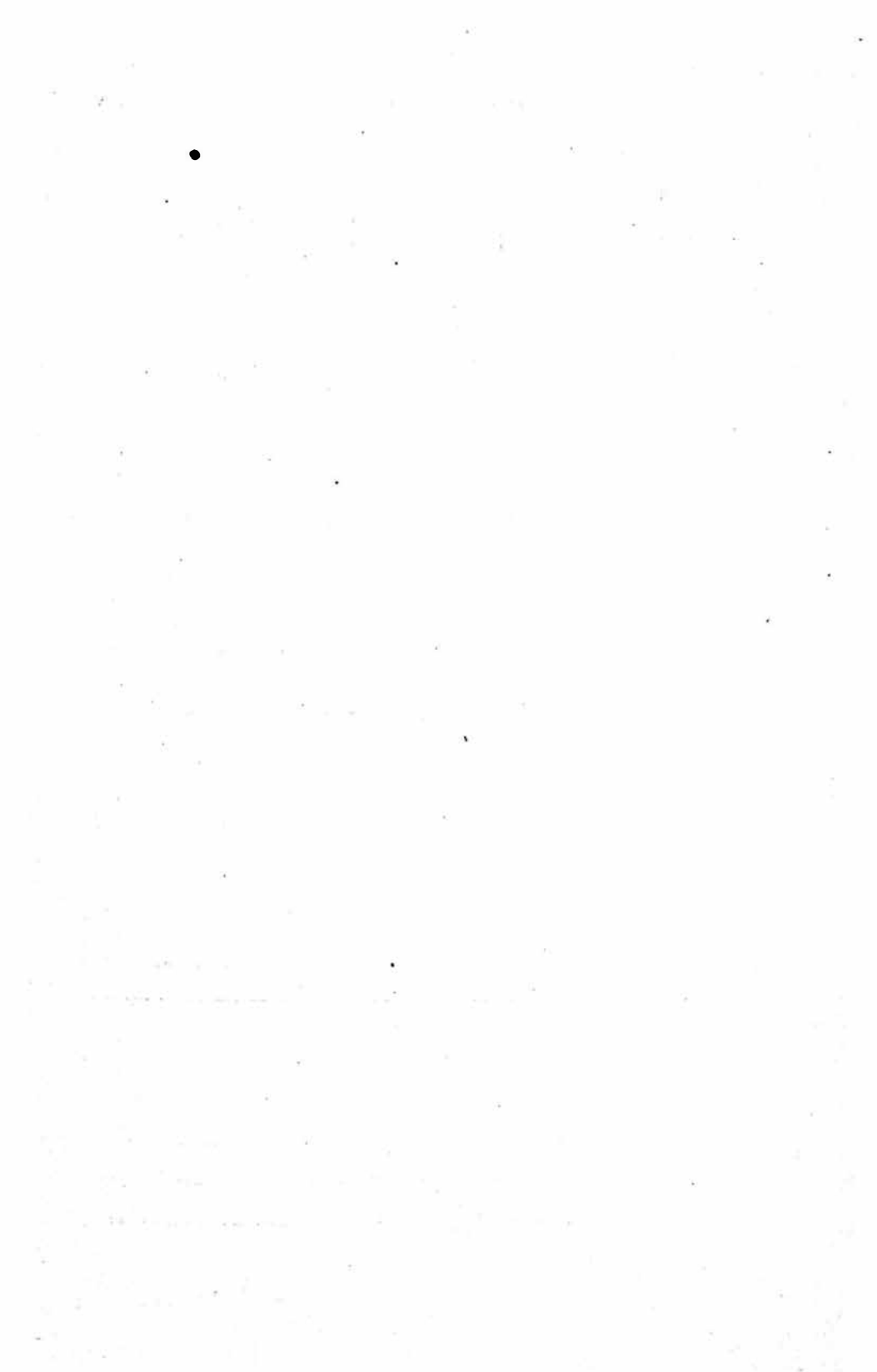
States.	Names of Commissioners.	Residence.	Date of Appointment.	When Evidence of Qualification Filed.
New York.....	John A. Hillery.....	New York City.....	September 8, 1879	September 11, '79
Massachusetts.....	Chas. Hall Adams.....	Boston.....	September 8, 1879	September 15, '79
Pennsylvania.....	John Sparbank.....	Philadelphia.....	September 10, 1879	September 13, '79
New York.....	Thos. B. Clifford.....	New York City.....	September 13, 1879	September 19, '79
New York.....	Eleazer Jackson.....	New York City.....	September 22, 1879	October 13, 1879
New York.....	George J. Smith.....	New York City.....	September 24, 1879	.....
Massachusetts.....	James B. Bill.....	Boston.....	October 27, 1879	November 10, '79
Louisiana.....	Charles T. Soniat.....	New Orleans.....	November 5, 1879	November 18, '79
New York.....	Jacob DuBoise.....	New York City.....	November 10, 1879	November 15, '79
Illinois.....	Philip A. Hoyne.....	Chicago.....	November 26, 1879	December 4, 1879
Pennsylvania.....	Charles Chauncey.....	Philadelphia.....	December 9, 1879	December 11, 1879
New York.....	Fred. A. Burnham.....	New York City.....	December 11, 1879	January 19, 1880
Pennsylvania.....	Edward Shippen.....	Philadelphia.....	December 12, 1879	December 16, 1879
New York.....	Henry C. Banks.....	New York City.....	December 15, 1879	December 31, 1879
Maryland.....	Philip H. Hoffman.....	Baltimore.....	December 29, 1879	December 31, 1879
Pennsylvania.....	J. Paul Diver.....	Philadelphia.....	December 31, 1879	January 10, 1880
Connecticut.....	David G. Gordon.....	Hartford.....	January 2, 1880	January 8, 1880
Pennsylvania.....	Henry E. Garsed.....	Philadelphia.....	January 5, 1880	January 8, 1880
New York.....	Wm. C. McKean.....	New York City.....	January 24, 1880	.....
New York.....	Louis Beckhart.....	New York City.....	January 31, 1880	February 6, 1880
Massachusetts.....	Edward J. Jones.....	Boston.....	February 3, 1880	February 9, 1880
California.....	Edward Chittin.....	San Francisco.....	February 5, 1880	February 21, 1880
New York.....	Frank Saunders.....	New York City.....	February 13, 1880	March 2, 1880
Pennsylvania.....	John Billaoger Cox.....	Philadelphia.....	February 13, 1880	February 21, 1880
Missouri.....	Chas. D. Green, Jr.....	St. Louis.....	March 3, 1880	March 10, 1880
North Carolina.....	John M. Sherwoods.....	Raleigh.....	March 22, 1880	March 26, 1880
Ohio.....	Samuel S. Carpenter.....	Cincinnati.....	March 26, 1880	March 29, 1880
Missouri.....	Chapman S. Charlot.....	St. Louis.....	April 1, 1880	April 12, 1880
Dist. of Columbia.....	John E. Beall.....	Washington.....	April 8, 1880	May 28, 1880
Louisiana.....	Geo. A. Here.....	New Orleans.....	April 14, 1880	April 26, 1880
New York.....	Charles Nettleton.....	New York City.....	May 24, 1880	May 27, 1880
Pennsylvania.....	Thos. J. Hunt.....	Philadelphia.....	June 9, 1880	June 12, 1880
Pennsylvania.....	Samuel L. Taylor.....	Philadelphia.....	July 20, 1880	July 23, 1880
Maryland.....	Carroll Sprigg.....	Baltimore.....	July 26, 1880	August 20, 1880
Maryland.....	I. D. Montague.....	Baltimore.....	July 27, 1880	July 30, 1880
New York.....	George R. Jaques.....	New York City.....	July 30, 1880	August 21, 1880
Massachusetts.....	James W. Chapman.....	Roston.....	July 30, 1880	August 6, 1880

COMMISSIONERS.

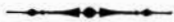
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COMMISSIONERS—CONTINUED.

States.	Names of Commissioners.	Residence.	Date of Appointment.	When Evidence of Qualification Filed.
Missouri .....	Julius Robertson.....	St. Louis.....	August 12, 1880	August 18, 1880
New York.....	Joseph B. ———.....	New York City.....	August 12, 1880	August 17, 1880
Georgia.....	Wm. B. Adams.....	Savannah.....	September 15, 1880	September 27, '80
Illinois.....	Simeon W. King.....	Chicago.....	September 27, 1880	December 4, 1880
Maryland.....	Henry K. Gregg.....	Baltimore.....	December 6, 1880	.....
Maryland .....	G. Erritt Rearden.....	Baltimore.....	December 7, 1880	.....



# TERMS OF CIRCUIT COURTS.



## FIRST JUDICIAL CIRCUIT—GEORGE E. BOYD AND THAYER MELVIN, JUDGES.

COUNTIES.	COMMENCEMENT OF TERMS.
Brooke.....	First Monday in March, first Monday in June and second Monday in October.
Hancock.....	Fourth Monday in March, fourth Monday in June and first Monday in November.
Ohio.....	Second Monday in April, first Monday in September and third Monday in November.
Marshall.....	First Monday in March, first Monday in June and second Monday in October.

## SECOND JUDICIAL CIRCUIT—A. BROOKS FLEMING, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Harrison.....	Second Tuesday in January, second Tuesday in May and second Tuesday in September.
Marion.....	First Tuesday in March, first Tuesday in July and fourth Tuesday in November.
Monongalia.....	Second Tuesday in February, second Tuesday in June and second Tuesday in October.

## THIRD JUDICIAL CIRCUIT—WILLIAM T. ICE, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Barbour.....	First day of March, sixth day of July and fifteenth day of October.
Preston.....	Eighth day of April, thirteenth day of August and twenty-fourth day of November.
Randolph.....	Twentieth day of May, fourteenth day of September and third day of January.
Taylor.....	Twentieth day of March, twenty-sixth day of July and fourth day of November.
Tucker.....	Tenth day of May, third day of September and sixteenth day of December.

## FOURTH JUDICIAL CIRCUIT—THOMAS J. STEALEY, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Doddridge.....	Third Monday in March, third Monday in July and third Monday in November.
Ritchie.....	Third Monday in February, third Monday in June and third Monday in October.
Tyler.....	Second Monday in April, second Monday in August and second Monday in December.
Wetzel.....	Third Tuesday in January, third Tuesday in May and third Tuesday in September.

## FIFTH JUDICIAL CIRCUIT—JAMES M. JACKSON, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Pleasants.....	Second Monday in March, second Monday in July and second Monday in October.
Wirt.....	Fourth Monday in March, fourth Monday in July and fourth Monday in October.
Wood.....	Second Monday in April, second Monday in August and second Monday in December.

## SIXTH JUDICIAL CIRCUIT—R. F. FLEMING, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Calhoun.....	Twentieth day of February, twentieth day of June and twentieth day of October.
Clay.....	Third Monday in May, third Monday in September and third Monday in December.
Gilmer.....	Fifth day of February, fifth day of June and fifth day of October.
Jackson.....	First day of March, first day of August and first day of November.
Roane.....	Fifteenth day of March, twentieth day of August and twentieth day of November.

## SEVENTH JUDICIAL CIRCUIT—F. A. GUTHRIE, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Kanawha.....	Second Monday in March, second Monday in June and first Monday in December.
Mason.....	First Monday in February, first Monday in May and first Monday in September.
Putnam.....	Fourth Monday in February, fourth Monday in May and second Monday in November.

EIGHTH JUDICIAL CIRCUIT—IRA J. MCGINNIS, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Catell.....	For the year 1881—First Monday in March, first Monday in June and first Monday in October. For the year 1882 and thereafter—First Monday in March, first Monday in August and first Monday in November.
Lincoln .....	For the year 1881—Third Monday in April, third Monday in July and third Monday in November. For the year 1882 and thereafter—First Monday in February, first Monday in June and first Monday in October.
Logan.....	For the year 1881—First Monday in May, first Monday in August and first Monday in December. For the year 1882 and thereafter—Fourth Monday in March, fourth Monday in August and fourth Monday in November.
Wayne.....	For the year 1881—Fourth Monday in March, fourth Monday in June and fourth Monday in October. For the year 1882 and thereafter—Third Monday in February, third Monday in June and third Monday in October.

NINTH JUDICIAL CIRCUIT—D. E. JOHNSTON, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Boone .....	First Monday in April, first Monday in July and first Monday in November.
McDowell.....	Fourth Monday in April, fourth Monday in July and fourth Monday in November.
Mercer.....	First Monday in March, first Monday in June and first Monday in October.
Raleigh .....	Fourth Monday in March, fourth Monday in June and fourth Monday in October.
Wyoming.....	Third Monday in April, third Monday in July and third Monday in November.

TENTH JUDICIAL CIRCUIT—HOMER A. HOLT, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Fayette .....	Fourth Monday in February, third Monday in May and third Monday in September.
Greenbrier.....	Third Monday in April, fourth Monday in June and first Monday in November.
Monroe .....	Third Monday in March, first Monday in June and first Monday in October.
Pocahontas.....	First Monday in April, third Monday in June and third Monday in October.
Summers.....	Second Monday in February, first Monday in May and first Monday in September.



## TERMS OF CIRCUIT COURTS.

## ELEVENTH JUDICIAL CIRCUIT—HENRY BRANNON, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Braxton.....	Fourth Monday in April, fourth Monday in August and fourth Monday in November.
Lewis.....	First Monday in March, third Monday in June and third Monday in October.
Nicholas.....	On Wednesday after the second Monday in April, on Wednesday after the second Monday in August and on Wednesday after the second Monday in November.
Upshur.....	Second Monday in February, first Monday in June and first Monday in October.
Webster.....	First Monday in April, first Monday in August and first Monday in November.

## TWELFTH JUDICIAL CIRCUIT—J. D. ARMSTRONG, JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Grant.....	For the year 1881—First Tuesday in April, first Tuesday in June and third Tuesday in October. For the year 1882 and thereafter—Second Tuesday in March, first Tuesday in June and third Tuesday in October.
Hampshire.....	For the year 1881—First Tuesday in March, fourth Tuesday in May and third Tuesday in September. For the year 1882 and thereafter—First Tuesday in February, first Tuesday in May and third Tuesday in September.
Hardy.....	For the year 1881—Third Tuesday in March, fifth Tuesday in May and first Tuesday in October. For the year 1882 and thereafter—Third Tuesday in February, third Tuesday in May and first Tuesday in October.
Mineral.....	For the year 1881—First Tuesday in May, first Tuesday in September and fourth Tuesday in November. For the year 1882 and thereafter—Second Tuesday in April, first Tuesday in September and fourth Tuesday in November.
Pendleton.....	For the year 1881—Third Wednesday in April, third Wednesday in June and first Wednesday in November. For the year 1882 and thereafter—Wednesday after the fourth Tuesday in March, second Wednesday in June and first Wednesday in November.

## THIRTEENTH JUDICIAL CIRCUIT—CHAS. J. FAULKNER, JR., JUDGE.

COUNTIES.	COMMENCEMENT OF TERMS.
Berkeley.....	For the year 1881—First Tuesday in February, third Tuesday in April and Second Tuesday in October. For the year 1882 and thereafter—Second Tuesday in January, Second Tuesday in April and second Tuesday in October.
Jefferson.....	For the year 1881—Second Tuesday in January, third Tuesday in May and fourth Tuesday in August. For the year 1882 and thereafter—Second Tuesday in February, third Tuesday in May and fourth Tuesday in August.
Morgan.....	First Tuesday in January, first Tuesday in April and second Tuesday in August.

List of Sheriffs.

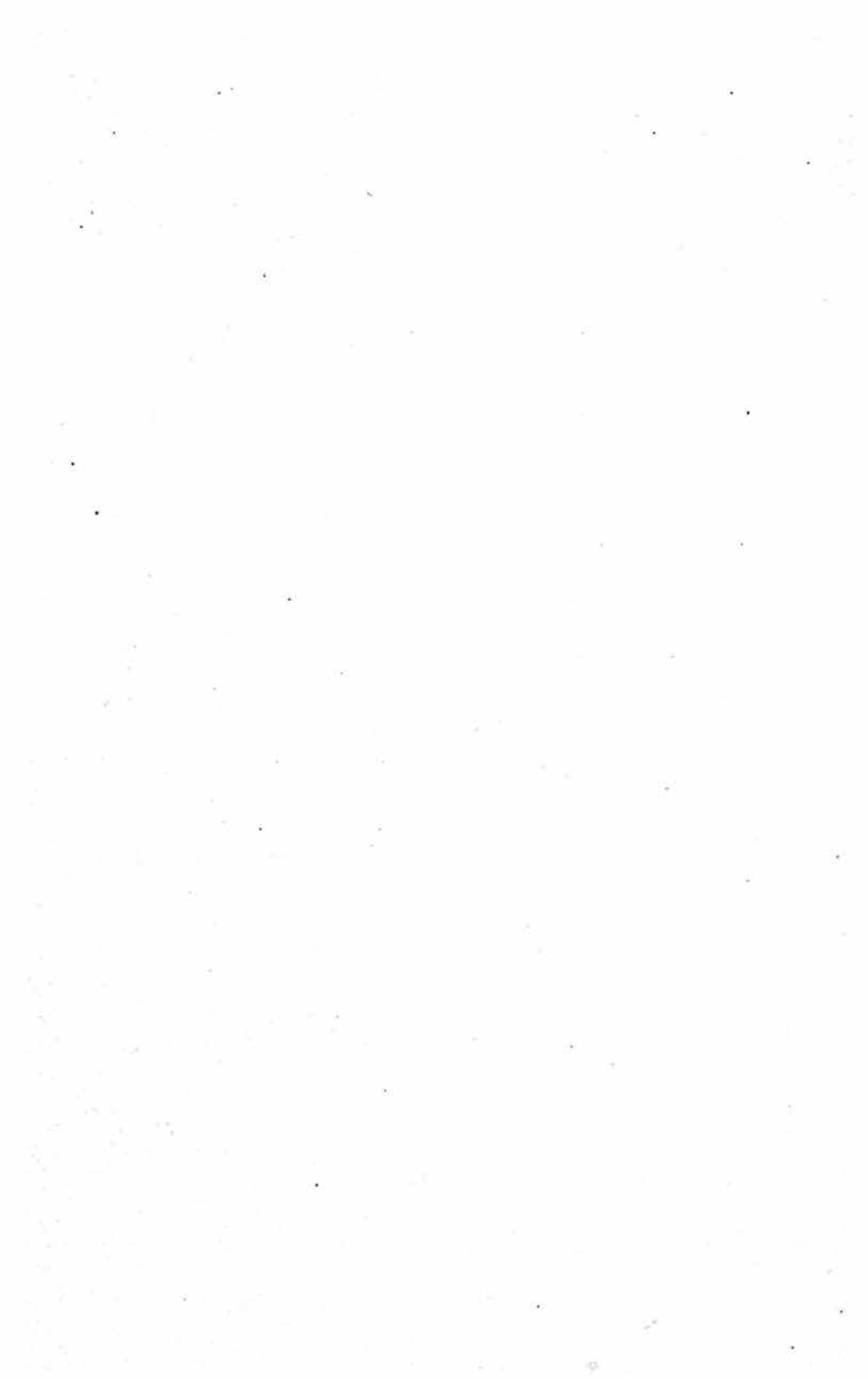
COUNTIES.	NAMES.	ADDRESS.
Barbour.....	James E. Heatherly.....	Philippi.
Berkeley.....	George A. Crisman.....	Martinsburg.
Boone.....	Wm. T. Smoot.....	Madison.
Braxton.....	A. C. Dyer.....	Braxton Court House.
Brooke.....	James W. Cooper.....	Wellsburg.
Cabell.....	Edmund Kyle.....	Cabell Court House.
Calhoun.....	John W. Bell.....	Grantsville.
Clay.....	P. B. Cochran.....	Pleasant Retreat.
Doddridge.....	S. B. McMillan.....	West Union.
Fayette.....	Wm. M. Tyree.....	Fayetteville.
Gilmer.....	Hugh McQuain.....	Glenville.
Grant.....	Arnold C. Seberr.....	Maysville.
Greenbrier.....	James Knight.....	Lewisburg.
Hampshire.....	John Monroe.....	Capon Bridge.
Hancock.....	John S. Swaney.....	New Cumberland.
Hardy.....	John W. Chambers.....	Moorefield.
Harrison.....	James D. Horner.....	Clarksburg.
Jackson.....	F. R. Hassler.....	Jackson Court House.
Jefferson.....	John T. Moore.....	Charlestown.
Kanawha.....	John F. Hubbard.....	Charleston.
Lewis.....	Addison McDaniel.....	Weston.
Lincoln.....	John S. Sweetland.....	Hamlin.
Logan.....	Robert W. Peck.....	Logan Court House.
Marion.....	C. B. Carney.....	Fairmont.
Marshall.....	J. B. Hicks.....	Moundsville.
Mason.....	A. A. Hanley.....	Pt. Pleasant.
Mercer.....	J. H. McClaugherty.....	Princeton.
Mincral.....	C. H. Caudy.....	Keyser.
Monongalia.....	George W. McVicker.....	Morgantown.
Monroe.....	R. T. McNeer.....	Union.
Morgan.....	Johu H. Buzzard.....	Berkeley Springs
McDowell.....	Wm. Harmon.....	McDowell Court House.
Nicholas.....	Henry McQueen.....	Hookersville.
Ohio.....	C. P. Brown.....	Wheeling.
Pendleton.....	F. Anderson.....	Franklin.
Pleasants.....	Wm. E. Bier.....	St. Mary's.
Pocahontas.....	Levi Gny.....	Marlin's Bottom.
Preston.....	Ellsha Thomas.....	Kingwood.
Putnam.....	L. A. Christy.....	Winfield.
Raleigh.....	Wilson Swiney.....	Raleigh Court House.
Randolph.....	Jacob G. Ward.....	Huttonsville.
Ritchie.....	D. F. Haymond.....	Ritchie Court House.
Roane.....	A. Cain.....	Three Forks of Reedy.
Summers.....	Harrison Gwinn.....	Green Sulphur Springs.
Taylor.....	Samuel S. Waller.....	Webster.
Tucker.....	Adam C. Mincar.....	St. George.
Tyler.....	Thomas Smith.....	Ripley.
Upshur.....	G. D. Marple.....	Tadman'sville.
Warne.....	W. E. Wilkinson.....	Wayne Court House.
Webster.....	H. W. Rader.....	Land's Bottom.
Weizel.....	B. B. Postlethwait.....	New Martinsville.
Wetzel.....	J. H. Romgarther.....	Wirt Court House.
Wirt.....	Chas. B. Smith.....	Parkersburg.
Wood.....	Richard Mitchell.....	Oceana.
Wyoming.....		

Clerks of Circuit Courts of West Virginia.

COUNTIES.	NAMES.	P. O. ADDRESS.
Barbour.....	I. V. Johnson.....	Philippi.
Berkeley.....	S. H. Martin.....	Martinsburg.
Boone.....	Wm. Thompson.....	Madison.
Braxton.....	W. F. Morrison.....	Braxton Court House.
Brooke.....	T. H. Marks.....	Wellsburg.
Cabell.....	M. S. Thornburg.....	Barboursville.
Calhoun.....	G. W. Silcott.....	Grantsville.
Clay.....	C. Pierson.....	Clay Court House.
Doddridge.....	T. K. Knight.....	West Union.
Fayette.....	E. H. Easley.....	Fayette Court House.
Gilmer.....	C. B. Conrad.....	Glenville.
Grant.....	John Bean.....	Grant Court House.
Greenbrier.....	Jonathan Mays.....	Lewisburg.
Hampshire.....	V. M. Poling.....	Romney.
Hancock.....	A. McFlannegan.....	Fairview.
Hardy.....	Charles Lobb.....	Moorfield.
Harrison.....	T. C. Ramage.....	Clarksburg.
Jackson.....	W. W. Riley.....	Jackson Court House.
Jefferson.....	F. P. Lynch.....	Charlestown.
Kanawha.....	Thomas Swinburn.....	Charleston.
Lewis.....	Wm. Harrison.....	Weston.
Lincoln.....	B. F. Curry.....	Hamlin.
Logan.....	John Chafin.....	Logan Court House.
Marion.....	C. L. Smith.....	Fairmont.
Marshall.....	A. O. Baker.....	Moundsville.
Mason.....	C. B. Waggener.....	Point Pleasant.
Mercer.....	F. A. Bolin.....	Princeton.
Mineral.....	W. T. Head.....	Keyser.
Monongalia.....	A. Haymond.....	Morgantown.
Monroe.....	M. J. Kester.....	Union.
Morgan.....	Lewis Allen.....	Berkeley Springs.
McDowell.....	John F. Johnson.....	McDowell.
Nicholas.....	A. P. Rader.....	Nicholas Court House.
Ohio.....	S. B. McColloch.....	Wheeling.
Pendleton.....	I. P. Boggs.....	Franklin.
Pleasants.....	J. L. Knight.....	St. Mary's.
Pocahontas.....	J. J. Beard.....	Huntersville.
Preston.....	S. Crane.....	Kingwood.
Putnam.....	H. L. Judge.....	Winfield.
Raleigh.....	John Beckley.....	Raleigh Court House.
Randolph.....	J. B. Morrison.....	Beverly.
Ritchie.....	W. A. Strickler.....	Ritchie Court House.
Roane.....	M. W. Kidd.....	Spencer.
Summers.....	B. L. Hoge.....	Hinton.
Taylor.....	John S. S. Herr.....	Grafton.
Tucker.....	John Adams.....	St. George.
Tyler.....	Christian Engle.....	Middlebourne.
Upshur.....	John A. Hess.....	Ruckhannon.
Wayne.....	J. P. Wellman.....	Wayne Court House.
Wester.....	B. C. Conrad.....	Webster Court House.
Wetzel.....	James W. Newman.....	New Martinsville.
Wirt.....	O. C. Morris.....	Wirt Court House.
Wood.....	O. M. Clemens.....	Parkersburg.
Wyoming.....	M. G. Clay.....	Oceana.

## Clerks of County Courts of West Virginia.

COUNTIES.	NAMES.	ADDRESS.
Barbour.....	L. C. Elliott.....	Philippi.
Berkeley.....	C. W. Doll.....	Martinsburg.
Boone.....	M. J. Hopkins.....	Madison.
Braxton.....	W. L. J. Corley.....	Braxton Court House.
Brooke.....	C. B. Turner.....	Wellsburg.
Cabell.....	M. S. Thornburg.....	Cabell Court House.
Calhoun.....	G. W. Silcot.....	Grantsville.
Clay.....	A. J. Stephenson.....	Clay Court House.
Doddridge.....	A. C. Holmes.....	West Union.
Fayette.....	M. T. Davis.....	Fayetteville.
Gilmer.....	Jasper N. Kee.....	Glenville.
Grant.....	John J. Bean.....	Petersburg.
Greenbrier.....	M. L. Spotts.....	Lewisburg.
Hampshire.....	C. S. White.....	Romney.
Hancock.....	A. McFlanigan.....	Fairview.
Hardy.....	Charles Lobb.....	Moorefield.
Harrison.....	James Monroe.....	Clarksburg.
Jackson.....	J. L. Armstrong.....	Jackson Court House.
Jefferson.....	Thos. A. Moore.....	Charlestown.
Kanawha.....	H. Morris.....	Charleston.
Lewis.....	Jesse Woofter.....	Weston.
Lincoln.....	H. Hager.....	Hamlin.
Logan.....	John Chafin.....	Logan Court House.
Marion.....	John B. Crano.....	Fairmont.
Marshall.....	Thomas Finu.....	Moundsville.
Mason.....	J. P. R. B. Smith.....	Pt. Pleasant.
Mercer.....	C. A. McNutt.....	Princeton.
Mineral.....	H. T. Head.....	Keyser.
Monongalia.....	Wm. S. Coburn.....	Morgantown.
Monroe.....	A. A. Nickell.....	Union.
Morgan.....	T. H. B. Dawson.....	Berkeley Springs.
McDowell.....	John M. Johnson.....	Perryville.
Nicholas.....	J. A. Hamilton.....	Nicholas Court House.
Ohio.....	George Hook.....	Wheeling.
Pendleton.....	Isaac P. Boggs.....	Franklin.
Pleasants.....	J. L. Knight.....	St. Mary's.
Pocahontas.....	J. J. Beard.....	Huntersville.
Preston.....	J. Ami Martin.....	Kingwood.
Putnam.....	W. T. Alexander.....	Winfield.
Raleigh.....	John Beckley.....	Raleigh Court House.
Randolph.....	J. D. Wilson.....	Beverly.
Ritchie.....	G. W. Ames.....	Ritchie Court House.
Roane.....	C. C. Clevenger.....	Spencer.
Summers.....	E. H. Peck.....	Hinton.
Taylor.....	John S. S. Herr.....	Grafton.
Tucker.....	John J. Adams.....	St. George.
Tyler.....	David Hickman.....	Middlebourne.
Upshur.....	C. C. F. McWhorter.....	Buckhannon.
Wayne.....	P. H. Napier.....	Wayne Court House.
Webster.....	B. P. Conrad.....	Webster Court House.
Wetzel.....	J. C. McEldowney.....	New Martinsville.
Wirt.....	O. L. Williams.....	Wirt Court House.
Wood.....	T. G. Smith.....	Parkersburg.
Wyoming.....	L. B. Cook.....	Oceana.



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