

A C T S

OF THE

LEGISLATURE

OF

WEST VIRGINIA.

Extra Session, 1908



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Note by the clerk of the House.

The following enactments received legislative sanction but failed to receive the approval of the executive, viz:

(House Bill No. 34.) * An Act to authorize the construction of a congregate dining hall and to complete the water works and furnish apparatus for supplying water at the West Virginia hospital for the insane at Weston.

(House Bill No. 29.) ** An Act to amend and re-enact sections eighteen, one hundred and twenty-a and one hundred and twenty-one of chapter thirty-two of the code and to add to said chapter sections three-a, forty-two-a and eighty-seven-a.

** The following items in the appropriation act, viz: West Virginia Industrial School, Seminary and College—for payment of teachers, five hundred dollars.

Contingent legislative expenses—senate, ten thousand dollars.

Contingent legislative expenses—house of delegates, four thousand two hundred and fifty dollars.

* Vetoed before the adjournment of the legislature and the house in which the bill originated sustained the governor's veto.

** Vetoed by the governor after the adjournment of the legislature.

ACTS OF 1908.

Extra Session.

(Senate Bill No. 37.)

CHAPTER 1.

AN ACT to amend and reenact and reduce into one the several acts and certificates incorporating the "Town of Beckley," and describing the limits of said town.

[Passed February 14, 1908. In effect ninety days from passage. Became a law without the approval of the Governor.]

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5. Corporate powers of council.
6. Qualification of officers; councilmen to reside in ward from which elected; removal from ward vacates office.
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Be it enacted by the Legislature of West Virginia:

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

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

Beginning where the present corporate limits of the town of Beckley and Atkinsville intersect near the Wildwood cemetery: thence with the present corporate limits of the said town of Atkinsville, including the present town of Atkinsville, to where the said corporate limits of said town of Atkinsville intersect with the corporate limits of the town of Beckley; thence a straight line to Cranberry junction; thence with and including the Paint Creek and Piney River railroad to the corporate limits of the town of Beckley; thence with said corporate limits to a point on said corporate line nearest the reservoir; thence a straight line to the nearest point of the corporate limits of the town of Skelton; thence with said corporate limits in the direction of the former residence of C. M. Calloway, near Little

White Stick to Little White Stick, where the said corporate limits of said town of Skelton leaves said Little White Stick creek; thence down and with Little White Stick creek to the Paint Creek and Piney River railroad; thence a straight line to the forks of the road in John's town; near the Fred Bair store; and thence a straight line to the intersection of the corporate limits of the said town of Beckley and Atkinsville, the place of beginning.

Sec. 3. If at any time the common council of said city shall deem it necessary, they may divide the territory of said city into wards, having regard to the compactness of the territory included in each ward and equalizing as far as possible the population of the several wards; and they may from time to time change the boundaries of the several wards so as to equalize the number of inhabitants of each ward as near as may be: *provided, however*, that no such change shall be made within ninety days next preceding any election.

Sec. 4. The municipal authorities of said city shall be a mayor, recorder, chief of police, assessor, treasurer, health officer, street commissioner and (until the city shall be divided into wards as provided in section three) five councilmen.

The mayor, recorder, treasurer and councilmen shall be elected by the qualified voters of said city; the other officers named shall be appointed by the common council. After the territory of said city shall have been divided into wards, then each ward shall have one councilman for each three hundred (300) or fraction thereof exceeding one hundred and fifty (150) of its inhabitants, but each ward shall have at least one councilman.

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

Sec. 6. No person shall be eligible to any office in said city, unless he is a qualified voter thereof, nor unless he has resided therein for at least one year next before his election and be a free holder in said city, and if a councilman he shall be a *bona fide* resident of the ward for which he is elected, and the removal from a ward of a councilman from which he is elected shall vacate his office; and no person shall be eligible to any office in said city unless he is a qualified voter thereof.

Sec. 7. The mayor shall be the chief executive officer of said city and shall see that the ordinances, by-laws and resolutions of the

council are faithfully executed; he shall be *ex-officio* justice of the peace within the city, within the same time, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace; and warrant or other process issued by him may be executed at any place within the county of Raleigh; but such mayor shall not receive any money belonging to the state, or to individuals, unless he shall give bond and security required of a justice of the peace by chapter fifty of the code of West Virginia, and all the provisions of said chapter relative to moneys received by justices shall apply to like moneys received by such mayor.

Sec. 8. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross walks, drains, and gutters therein, for the use of the public, and to improve and light the same and keep the same clean and free from obstructions of every kind; to regulate the width of pavements, sidewalks, footways, drains, and gutters, to be kept in good order, free and clean by the owner, or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time of holding the same, provide suitable and convenient buildings therefor; prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits or the exercise of any unhealthful or offensive business, trade or employment; prohibit all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the owner of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner of any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs or sheep or other domestic animals or fowls of all kinds from going or being at large in said city, and as one means of prevention thereof, to provide for impounding and confining such animals and fowls and upon failure to reclaim for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where such worship is held; to regulate the keeping of gun-powder or other inflammable or dangerous substances; to provide and regulate the building of houses and other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of city lots or other parcels of land by or at the expense of the owner or occupant thereof; to provide against damages or danger by

fire; to punish for assault and battery; to prohibit loitering or visiting houses of ill fame, or loitering in saloons or upon streets; to punish for offences committed and forbidden under and by virtue of section seven of chapter one hundred and forty-eight of the code of West Virginia, relating to the carrying of dangerous and deadly weapons; to prevent the operation and maintenance of slot machines and other gambling devices; to prevent lewd and lascivious conduct, the sale or exhibition of indecent pictures or other representation; to prevent and punish for profane swearing; illegal sale of all intoxicating liquors; to protect the persons of those residing or being within the city, and to prevent and punish for all crimes and misdemeanors other than felonies; to build, purchase, or lease and to use a suitable place within or near said city for the safe keeping or punishment of persons charged with or convicted of the violation of ordinances; to provide for the employment of persons convicted of the violation of ordinances or who may be committed in default of the payment of fines, and penalties, or costs and who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such other means to prevent their escape while at work as they may deem expedient; to require, erect or prohibit the erection of gas works, electric light works, or water works within the said city limits; to prevent injury to such works or the pollution of any gas or water used or intended to be used by the public or individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell, and control the electricity and gas for heat, light, power, and to furnish for the streets, houses, and buildings, and other places in and about said city; to provide a sewerage system for said city; to regulate the speed of moving trains in or through said city; to organize one or more fire companies and to provide the necessary tools, implements, and engines and any of them for their use with respect to the erection and location of all telephone, telegraph, electric light or other poles within the said city, and the extension of wires, lines or poles to any individuals or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways in said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted, nor shall franchise be granted for a longer period than twenty years; to create by ordinance, such committees or boards and to grant such authority thereto as may be deemed advisable; and to provide a revenue for the

city for municipal purposes, and appropriate such revenue to its expense and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; such police regulations as may be ordained by said city and the right and power to enforce the same, shall extend one mile in the state of West Virginia, beyond the corporate limits of the city; except however, the police power of said city of Beckley shall not extend into any other municipal corporation, except as provided in section seven of this act: *provided, further*, that no fine shall be imposed for the violation of any ordinance exceeding one hundred (\$100.00) dollars, and that no person shall be imprisoned or compelled to labor as aforesaid for more than six (6) months for any one offence, and in all cases where a fine is imposed for an amount exceeding ten (\$10.00) dollars, or person be imprisoned or compelled to labor as aforesaid, an appeal may be taken from the decision, upon the same terms and conditions that appeals are taken from the judgment of justices of the peace of this state.

The council of said city shall have power and authority to control and regulate the construction and repair of all houses and other buildings within the said city, to provide for the granting of building permits; to cause the removal of unsafe walls or buildings and may upon the petition of any person or persons owning the greater amount of frontage on the lots abutting on any street between any two cross streets or in any square in said city, prohibit the erection on such streets, or in such square, of any building or any addition to any building unless the outer walls be made of brick and mortar or other fire proof materials, and to provide for the removal of any building or additions, which shall have been erected, contrary to any prohibition, at the expense of the owner or owners thereof.

Sec. 9. Whenever a vacancy shall occur in the office of mayor, recorder, treasurer, or councilman, the common council shall fill the same by election, by a *viva voce* vote for the unexpired term.

Sec. 10. Every person who has been a *bona fide* resident of the city for two months next preceding any city election therein and who is a qualified voter under the constitutional laws of this state, shall be entitled to vote at any city election and (after the city has been divided into wards, in the ward in which he resides) but no person shall be deemed a resident of such city by reason of being stationed therein for any temporary purpose.

Sec. 11. The first election hereunder shall be held on the first

Tuesday in October, nineteen hundred and nine, and every two years thereafter and the term of office shall begin on the first day of January thereafter and the same shall be conducted under and by the direction of the council of the said city, and as far as practical, the same rules and regulations as provided by general law; nominations shall be made by conventions or primaries duly called, and all nominations for public office in the city shall be closed ten days before such election, and it shall be the duty of said recorder of said city of Beckley, to certify and enter of record all such nominations, and no person whose nomination has not been so certified shall be eligible to be voted for, for any office within said city.

Sec. 12. Every person elected or appointed to an office in such city, shall within twenty days after his election or appointment and before entering upon the duties of his office, take and subscribe the oath of office prescribed by law in the case of district officers, which may be done before any person authorized by law to administer oaths in this state, and the certificate of the officer administering the oath shall be filed with the recorder of the city.

Sec. 13. The council shall prescribe the powers and define the duties of all the officers appointed, except so far as the same is herein prescribed and defined, and may require and take from them, respectively, bonds payable to the city in the corporate name, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 14. The council shall have the authority to remove from office any officer of the city, whether elected or appointed, for misconduct in office, incompetency to perform the duties required by their office, gross immorality or habitual drunkenness, by vote of four-fifths of the members elected to the common council, but no officer of said city shall be removed as aforesaid, until he has been served with a written notice, specifying the charges and reason for such removal, and such notice shall be given at least ten days prior to the day therein set for hearing of the same, and shall also state the place where said hearing shall take place, and the said officer shall have the right to be heard in his own defence, and in the case of an elective office, said officer shall have a right to appeal to the circuit or criminal court of the county and the right of a trial by jury, but said appeal shall not be taken after ten days have expired from the decision of the council.

Sec. 15. The council shall be presided over at its meetings by

the mayor, or in his absence by the recorder; or, in the absence of both the mayor and recorder, by a councilman, selected by a majority of the council present. A majority of the council shall be necessary to form a quorum for the transaction of business.

Sec. 16. The recorder shall have no vote as a member of council; the mayor or recorder presiding shall have a vote only in case of a tie, and in no case shall the presiding officer have more than one vote.

Sec. 17. The council shall cause to be kept in a well bound book called the council journal, an accurate record of all its proceedings, by-laws, ordinances, and resolutions, which shall be fully indexed and shall be open to the inspection of any one who is required to pay taxes in the city. Records of the town of Beckley shall be deposited with the council of said city and it shall make suitable provisions for the safe keeping of the same; at each meeting of the council the proceedings of the last meeting shall be read, corrected, if erroneous, and signed by the presiding officer.

Sec. 18. To carry into effect the enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make all needful ordinances, by-laws, orders and resolutions, not repugnant to the constitution of the United States, and of this state, and to enforce any and all of such ordinances, by-laws, orders or resolutions by prescribing for a violation thereof by fines and penalties and imprisonment in either the county jail of Raleigh county, or the city of Beckley prison, if there be one, but such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act, by the recorder of said city, or in case of the absence or inability to act of both of the said officers, of one of the councilmen appointed for that purpose by the council.

Sec. 19. The council shall cause to be annually made up and entered upon its journal not later than the first day of July of each year, an accurate estimate of all sums that are or may become chargeable to such city, and which should be paid in one year, and it shall order a levy sufficient, in its opinion, to pay the same.

Sec. 20. The levy so ordered shall be a special levy of not more than two dollars (\$2.00) on each dog running at large in said city, and a tax upon real and personal property therein, subject to state and county taxes upon the basis of the valuation of such property

as provided for in this act, but the taxes so levied upon said property shall not exceed the rate fixed by law subject to increase as provided by law.

Sec. 21. All taxes which the council are or may be authorized to levy and collect, and all fines and costs and penalties which may be imposed and collected for violations of the laws and ordinances of said city, shall inure to the exclusive benefit of said city, and all moneys received or collected for the use of the said city shall be paid into the city treasury and shall not be drawn therefrom, except as the council in accordance with this act, may by order duly recorded in the council journal of said city by orders drawn upon the city treasurer, signed by the mayor and countersigned by the recorder, and no order shall be issued upon any fund unless there is an unexpended balance to the credit thereof sufficient to cover such order, and money in the treasury to pay it; the council shall on or before the first day of April in every year, cause to be published in two newspapers of different political faith if there be two newspapers of different political faith published in said city, and if not then in one newspaper published in said city, a statement of receipts and expenditures of said city for the past year, for each of the several funds, and the same shall be signed and sworn to by the recorder.

Sec. 22. That when anything is to be done within the said limits of the said city of Beckley for which a state license is required the council of said city shall have plenary power to decide, except as is provided in the next succeeding section, whether such license shall be granted or not, and if such license be granted by such council the same shall be assessed and collected in the same manner and to the same effect as if granted by the county court of Raleigh county; and in addition to the state tax for such license the said council shall require an additional tax for the use of the said city as the said council may by ordinance prescribe; but not exceeding the state tax on any license for which a state tax is levied, and in addition to the bond and security required by the state, the council of the said city shall require such additional bonds, payable to the said city, and surities thereon as they may by ordinance prescribe; and the said council of the said city of Beckley shall have plenary power to grant license for all things and to such persons and corporations as the council may deem proper, except as provided for in the next succeeding section, without applying to the county court of Raleigh county for and respecting the same.

Sec. 23. That the existing laws for the state of West Virginia for and respecting the manufacture and sale of alcohol, spiritous liquors, wine, porter, ale, beer or other intoxicating liquors or drinks of like nature and the laws of the said state for and respecting the granting of license for the manufacture or sale thereof by the county court of Raleigh county are and shall remain in full force and effect in the said city of Beckley.

Sec. 24. That the council of the said city of Beckley shall not authorize the issuance of a license by the county court of Raleigh county for the manufacture of alcohol, spiritous liquors, wine, porter, ale, beer or other intoxicating liquors or drinks of like nature, except and until the question of such license for the manufacture or sale thereof shall have first been submitted to a vote of the people, and the issuance of such license authorized by the vote of two-thirds of the qualified voters thereof within said city, and the said council of the said city may and shall upon petition of ten per cent. of the qualified voters within the said city call such election in the manner prescribed by law, and in ascertaining and determining the per centum of such qualified voters the same shall be ascertained by the greatest number of votes cast for any one candidate in the next preceding election within said city.

Sec. 25. That no license shall be issued for the sale of intoxicating liquors or the manufacture thereof within two miles of the corporate limits of said city of Beckley without the consent of council of the said city of Beckley first obtained in the manner aforesaid, unless the same be within another incorporated city, town or village in which there is such license.

Sec. 26. The council of the city of Beckley may revoke any license for the breach of any of the conditions given in any bond or insufficient security thereon, or for any good cause shown, but before such license shall be revoked the person holding same shall first be given ten days' notice of the place of hearing and he shall also be informed in writing of the accusation against him and such person shall be entitled to be heard in his own proper person and by counsel in opposition to such revocation.

Sec. 27. That nothing herein contained shall be construed to divest the county court of Raleigh county of its power to refuse to grant a license for the manufacture or sale of alcohol, spiritous liquors, wine, porter, ale or beer or other intoxicating liquors or drinks of like nature, although issuance of such license be authorized by the

council of the said city of Beckley in the manner and to the effect hereinbefore provided.

Sec. 28. No person without first having obtained a state license therefor from the city of Beckley shall

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

(b) Carry on the business of a druggist; or

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

Sec. 29. That no person, firm or corporation shall, without first having obtained a license therefor in the manner and to the effect provided for and prescribed by sections twenty-three and twenty-four.

(a) Sell or offer to expose for sale, or solicit or receive orders for spiritous liquors, wine, porter, ale or beer or any drink of a like nature; or

(b) Carry on the business of distiller or brewer of whiskey, brandy, beer, porter or ale.

All mixtures, preparations or liquids which will produce intoxication, whether they are patented or not, shall be deemed spiritous liquors wherever mentioned and contained in the charter of the said city of Beckley.

Sec. 30. That the city of Beckley shall be and is hereby vested with plenary power to punish any and all persons for the violation of sections twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, and that punishment for violations of any of the provisions of said sections shall be and is as prescribed by the existing laws of the state of West Virginia.

Sec. 31. There shall be a lien on real estate in said city for the city taxes assessed thereon and for all the fines and penalties assessed against or imposed against the owners thereof by the authorities of said city from the time the same are assessed or imposed which lien shall have priority over all other liens except for taxes due to the United States, the state of West Virginia and county and district taxes, and which may be enforced by the council in the same manner provided by law for the enforcement of county taxes; if any real estate within the said city be returned delinquent for the non-payment of taxes due thereon, a copy of such delinquent list shall be certified by the auditor of the state of West Virginia and said property may be sold for city taxes, interest and commission thereon in the same manner, at the same time, and by the same officer as real estate sold

for the non-payment of state taxes; all other liens created by this section may be enforced by said city by suit in equity in the name of the city against the person whom said lien exists.

Sec. 32. The treasurer of said city, before entering upon the discharge of his duties, shall execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over as required by law all moneys which may come into his hands by virtue of his office, with such surety thereon as shall be satisfactory to the council of said city and the bond aforesaid shall be payable to the said city and shall be in a sum not less than three thousand dollars nor in excess of fifteen thousand dollars, as the council of the said city may by ordinance prescribe. Said treasurer shall be the custodian of all money, bonds, notes, certificates, and all such other evidence of indebtedness to the said city, together with all valuable papers which may come into his hands under and by virtue of his said office, and he shall be chargeable with and it shall be his duty to collect the city taxes, levies, assessments, fines and penalties under such regulations as the said council of said city may by ordinance prescribe and such treasurer shall have the same power and authority to distrain and sell property for delinquent taxes on personal property levies, assessments, fines and penalties in like manner and to the same effect as authorized and prescribed by the laws of the state of West Virginia for and respecting the collection of state and county taxes and levies; the compensation of said treasurer shall be such as the council of said city may by ordinance prescribe except the same shall not exceed five per centum of the amount of money collected by said treasurer under and by virtue of his said office and in case such treasurer shall fail or refuse to account for and pay over all funds or any part thereof received by him under and by virtue of his said office he shall be chargeable therewith and be held answerable therefor, and if the said treasurer shall fail or refuse to pay over to the proper officers or to the said city any money or funds received by him as aforesaid when required to do so, then the said city shall have the right to sue in its corporate name and to recover the same from the said treasurer on his official bond by an action at law or a suit in equity in a court having jurisdiction in the premises and in the event the amount sued for shall not exceed three hundred dollars the said city may recover the same by an action before a justice of the peace within the county of Raleigh against the treasurer and his sureties or any of them or his or their personal representatives upon giving ten days'

notice in writing of the nature of said claim and of the time of hearing thereof.

The treasurer of said city shall on the last day of each month file with the recorder of said city an itemized statement showing his total collections, if any, and disbursements for the preceding month, which said itemized statement shall be verified by affidavit, and said treasurer shall annually on or before the first day of July make settlement with the council of said city as the general laws of the state of West Virginia provide for settlement by the sheriff with the county court; and upon the completion of such settlement all orders surrendered by such treasurer shall be audited and cancelled by the recorder of said city in the presence of the council or in such manner as the council may prescribe, showing that such evidence of indebtedness has been fully paid.

Sec. 33. It shall be the duty of the assessor of said city to make an annual assessment of all real and personal property subject to taxation within said city beginning on the first day of January of each year and to complete said assessment as soon as practical and not later than the first day of April in the year of which such assessment is made, and make report thereof to the council of said city on the first day of April of each year for its adoption, and immediately after said assessment has been filed with the council it shall cause notice thereof to be published for two successive weeks in at least two newspapers of opposite political faith and after said expiration of said two weeks the council shall hold a meeting for the purpose of hearing and determining the petition of any and all parties being themselves aggrieved by such assessment, at which time the said council shall correct such error as to it may appear to have been made in such assessment and to adopt and ratify the assessment as made and as corrected by said council, if any correction be made.

Sec. 34. The city shall construct and maintain its own roads, streets, and alleys, and said city shall not be required to pay any district road taxes for the construction or maintenance of roads without the limits of said city.

Sec. 35. It shall be the duty of the recorder to keep a journal of the proceedings of the council, to have charge of and preserve all records of the city, and perform such other duties pertaining to his office as the council may by ordinance prescribe. In the absence of the mayor of the city, or during any vacancy in the office of mayor, the recorder shall perform the duties pertaining to the office of mayor.

and for that purpose he shall have and possess all power of the mayor.

Sec. 36. The chief of police shall be *ex-officio* constable within the corporate limits of the city, and shall give such bond as shall be required by the council of said city in the penalty of at least one thousand dollars, conditioned as required by law for constables of the county of Raleigh; he may execute any writ or process issued by the mayor or a justice at any place within the limits of said city; and shall have all the powers, rights and privileges within the corporate limits of the city in regard to the arrest of persons, the collection of claims and execution and return of process which may be legally executed by a constable under the state laws and the liability of said constable shall be as prescribed by the general laws of the state of West Virginia.

The powers, duties and liabilities of all police officers within said city shall be as the council of said city shall by ordinance prescribe.

Sec. 37. The council of the said city shall have the right to bond the said city for the purpose of paving the streets and alleys of said city and for constructing water works and a sewerage system for the same, and for the purpose of providing hose and other appliances for extinguishing fire, and for any and all public improvements whenever the council thereof may deem improvements necessary; and to refund outstanding bonds at a lower rate of interest, and to issue new bonds for the purpose of increasing the length of the time on any such indebtedness, but the aggregate indebtedness of said city, for all purposes, shall not at any time exceed five per centum of the assessed valuation of the taxable property therein based upon the valuation of the last assessment next preceding the date of incurring said indebtedness; and the said council shall by taxation provide a fund for the payment of interest on any and all indebtedness of said city and to pay the principal of said indebtedness incurred in the manner aforesaid within the period of thirty-four years: *provided* that no debt shall be incurred hereunder until the question of a bond issue be submitted to a vote of the people and the issuance thereof authorized by a two-thirds vote.

Sec. 38 The council of said city, except as herein otherwise provided, shall by ordinance prescribe the salaries of all officers, employees and servants of the city.

Sec. 39. The council shall have the power to institute proceedings in the name of the city for the condemnation by the state for the use of roads, streets and alleys, drains, sewerage, public buildings

and grounds, including parks and cemeteries for use of the city, and the manner of procedure shall as near as possible be made to conform to the proceedings provided for in chapter forty-two of the code of West Virginia, and all expense thereof shall be paid by the city except as the court by judgment or decree provides.

Sec. 40. The said city of Beckley shall succeed to all the rights and liabilities of the town of Beckley and it shall be liable for all the debts and obligations of the town of Beckley in the same manner and to the same effect as if such indebtedness had been created by the said city of Beckley.

Sec. 41. That portion of the proposed city of Beckley now within the corporate limits of Atkinsville shall pay off all existing indebtedness, if any there be, and their present officers shall cease to exercise any official duties, except such as may be necessary for the purpose of finishing the business of said town of Atkinsville.

Sec. 42. All ordinances in force in said town of Beckley at the time this act goes into effect so far as the same or any part thereof are inconsistent with this charter are hereby repealed, and all ordinances of said town which are not inconsistent with this charter are hereby retained and shall continue in force within the said city of Beckley until the same shall be repealed or amended by the said council of the said city of Beckley.

Sec. 43. That the new officers, provided for by this act shall be appointed by the council until the first election provided for by this act.

Sec. 44. All acts and parts of acts of the legislature of West Virginia and all existing laws which are in conflict or inconsistent with this charter are hereby repealed, and chapter forty-seven of the code of West Virginia in so far as the same is not inconsistent with the several provisions of this charter are hereby adopted and made a part hereof.

(Senate Bill No. 1.)

CHAPTER 2.

AN ACT to amend and re-enact sections one hundred and one (101), one hundred and two (102), one hundred and three (103), and one hundred and four (104) of an act of the legislature of West Virginia, passed February eleventh, nineteen hundred and seven, entitled: "An Act to amend, revise and consolidate into one act the act of the general assembly of Virginia," passed March eleven, eighteen hundred and thirty-six, entitled: 'An Act to incorporate the city of Wheeling in Ohio county', and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form part of the charter of the city of Wheeling."

[Passed February 1, 1908. In effect ninety days from passage. Approved February 7, 1908.]

SEC.

101. Civil service in certain departments.

102. Duty of board of control; departments classified; appointments; chief of fire department and superintendent of water works now in office; vacancy, how filled.

103. When board of control to make ap-

SEC.

104. Board of control to prescribe rules and regulations governing civil

service; who appointed in case of vacancy; removals; appeals from decision of board; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections one hundred and one (101), one hundred and two (102), one hundred and three (103), and one hundred and four (104) of the act of the legislature of West Virginia, passed February eleventh, nineteen hundred and seven, entitled: "An Act to amend, revise and consolidate into one act the act of the general assembly of Virginia," passed March eleven, one thousand eight hundred and thirty-six, entitled: 'An Act to incorporate the city of Wheeling in Ohio county,' and all subsequent acts both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling, are hereby amended and re-enacted so as to read as follows:

Sec. 101. There shall be a system of civil service in the fire department and in the water department of the city of Wheeling, in accordance with the provisions of the three sections next following, numbered respectively one hundred and two, one hundred and three, and one hundred and four, which three next following sections shall be in force notwithstanding anything to the contrary hereinbefore in

said act passed February eleventh, one thousand nine hundred and seven, or in any other law, contained.

Sec. 102. The board of control shall separate the officers and employees of the fire department into two general classes, and the officers and employees of the water department likewise into two general classes, one of such classes to be known as the official service, and the other as the labor service; the former or class to be known as the official service shall come under the civil service, and the other class to be known as the labor service is expressly excluded from the operation of such civil service. From and after the making by said board of control of such classifications, appointments in the official service aforesaid in said two departments last named shall be conferred only upon those showing by competitive examination and test that they are best fitted for the respective positions to which they respectively seek to be appointed, but in no event shall the political or religious affiliations or belief of an applicant for a position or employment in either of such classes be considered either for or against the applicant or in anywise be permitted to influence any appointment or employment in either of such departments. And said board of control may change such classification from time to time.

Until such board of control shall make the appointments in the official service in said fire department and water department, as in the next section authorized, the chief of the fire department of said city and superintendent of its water works, now in office, shall remain in their respective offices or positions aforesaid at their present rates of salary respectively, and respectively conduct their departments under the rules now prevailing respectively the same, until their successors shall be appointed hereafter by said board of control and duly qualify. But in case either said chief or superintendent shall die before his successor is appointed by such board and qualified, the vacancy in the office shall be filled by election by the city council until such appointment is made by such board and the appointee has qualified.

Sec. 103. The board of control shall have charge of such civil service and make the appointments in the official service aforesaid in said fire and water departments of said city after such competitive examinations and tests.

Sec. 104. The board of control shall from time to time prescribe rules and regulations governing the said civil service and providing for examinations and tests to be given applicants for appointment to

position in the official service aforesaid in said fire or water department, and the method, scope and extent of such examinations and tests, and such board shall also from time to time prescribe rules and regulations for the conduct and government of said two departments. The rules and regulations of said board shall provide for appointments within such official service in said two departments on the basis of ascertained merit; but notwithstanding anything to the contrary in this section or in any other section of the said act of February eleventh, one thousand nine hundred and seven, contained, when a vacancy shall occur in the office or position of chief of the fire department or superintendent of the water works, after the first appointment to said offices or positions shall have been made by said board, such vacancy shall be filled by the appointment of some member of the official service in the department in which such vacancy has occurred.

Any one holding a position in such official service shall only be removed for official misconduct, incompetence, neglect of duty, or gross immorality, by said board after charges in writing have been filed before it and the accused summoned before it and a trial had of such charges before said board. Subpoenas for witnesses to testify upon such trial shall be issued by the clerk of the circuit court of Ohio county, and the witnesses compelled to testify by said circuit court by like proceedings as in cases in such court.

An appeal of right shall be allowed the accused from a judgment of said board upon such charges against him to such circuit court, on which appeal the testimony shall be heard *de novo* and judgment rendered without regard to the decision of said board in the case; and the proceedings on such appeal shall conform so far as applicable to the proceedings in circuit courts for the removal from office of county officers.

All acts and parts of acts in so far as in conflict with this act, are hereby repealed.

(Senate Bill No. 9.)

CHAPTER 3.

AN ACT to establish the independant school district of Buckhannon, in the county of Upshur, and state of West Virginia.

[Passed February 20, 1908. In effect from passage. Became a law without the approval of the Governor.]

- SEC.
1. Election authorized to establish independent school district; name and boundaries.
 2. Board of education, authority of; term of office; president and commissioners; elections, when held; vacancy, how filled.
 3. To conform to and be governed by general school laws, except, etc.
 4. Powers of board; school term; levy.
 5. President of board, vote of.
 6. Secretary, when appointed; duties; term of office; compensation.
 7. Meetings of board of education; quorum; special meetings; election of superintendent or teachers; compensation of members of board.
 8. Board to have exclusive control of schools; text books.
 9. Power of board as to establishing schools; high schools; branches to be taught; when pupil may enter high school.
 10. Admission to schools.
 11. School for colored children.

- SEC.
12. Superintendent of schools, salary and duties, vacancy, how filled.
 13. Teachers; appointment and qualification of.
 14. Superintendent and teachers; removal of.
 15. Levy; how conducted.
 16. Bond issue; interest; when payable.
 17. Limit of indebtedness; question of bond issue to be submitted to voters; duty of board as to bond issue.
 18. Duty of board as to payment of principal and interest on bonds.
 19. Elections; notice by publication.
 20. How elections conducted, result.
 21. Ballots; authority of board if result of election is favorable to bond issue.
 22. Collecting officer, compensation.
 23. When money to be paid out by collecting officer; settlement with board.
 24. Election for establishment of independent school district; how conducted.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event a majority of the votes cast at an election to be held on the second Tuesday in April, one thousand nine hundred and eight, in Buckhannon district, in Upshur county, West Virginia, 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, and bounded and described as follows:

Beginning at the line between Jacob Dean and D. W. Dix on the Buckhannon river, below said Dean'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; thence a straight line in a southern direction to the line between the farm of M. J. Jackson and the Montaville Reger heirs; thence with the said line in an eastern direction to the Buckhannon river; thence with and down said river to a point on said river, on the south side thereof, and opposite the place of intersection of the old Crites mill road with the Staunton and Parkersburg turnpike; thence across said river to the intersection of the said old Crites mill road; thence a straight line

through the land of Adam Post and J. W. Heavner to the Heavner ford in the Buckhannon river; thence with and down said river to the place of beginning.

Sec. 2. The board of education of said independent school district shall consist 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, and they shall have all the powers, perform all the duties and be subject to all the liability, both of boards of education and trustees.

They shall hold their offices for the term of four years, beginning on the first day of July, next after the election at which they are elected.

When this act shall take effect S. C. Rusmisell shall be the president of the board of education of the independent school district of Buckhannon for a period of four years from and after the first day of July, one thousand nine hundred and seven, until the expiration of the four years term for which he was elected under the old law; and M. C. Brake shall be one of the commissioners of the board of education of the independent school district of Buckhannon, who shall hold his office for a period of four years, dating from the first day of July, one thousand nine hundred and seven, the term for which he was elected under the old law; and U. G. Young shall be the other commissioner until the election of his successor at the next general election, to be held in November, one thousand nine hundred and eight; and said president and commissioners shall hold their office as herein specified until their successors are elected and qualified according to law, and a president and one member of said board shall be elected at the general election every four years thereafter.

But nothing herein 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.

Sec. 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.

Sec. 4. The said board of education of the independent school district of Buckhannon shall have power to lay levies without a vote being taken by the voters of said district empowering it to do so. 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 incidental expenses necessary to carrying on and conducting schools, including fuel and other things necessary for schools, or entirely to building purposes, or partly for either; but there shall be schools taught in said district for both white and colored children, for at least six months in each year and said board of education may provide for a longer period without resorting to a vote of the people residing therein: *provided, however*, that the manner of laying such levies and other levies by the board of education, and the rate or amount of such levies, shall conform to any general law now existing or passed at this session of the legislature.

Sec. 5. The president of said board of education shall have one vote as president of said board on all questions, but shall not vote the second time on any question arising in said board by reason of his being the presiding officer thereof.

Sec. 6. The said board shall, at their first meeting in July of each year, appoint a secretary who shall perform such duties for said board as are required of secretaries of other boards of education, who shall hold his office at the will of said board and whose compensation shall be fixed by the board and shall not be less than twenty-five nor more than fifty dollars per year, and shall have in addition thereto the usual fee for making the annual report required by law.

Sec. 7. The board of education shall hold stated meetings at such times and places as they may appoint, not less than two members being required to constitute a quorum for the transaction of business. Special meetings may be called by the president, or, at the request of any member, by the secretary. The concurrence of two members of the board shall be required to elect a superintendent or teachers and to decide all questions involving the expenditure of money. The members of the board of education shall receive the same compensation as other boards of education.

Sec. 8. The board of education shall have exclusive control of all

schools within the district; shall have power to make all necessary rules and regulations for the government of the schools of the district for the admission of pupils therein, for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the morals or discipline of the school. It may prescribe text-books for the use of the schools in the district, supplementing the list adopted for the county, and may furnish books and stationery for the use of indigent children in attendance at the schools. It may furnish all necessary apparatus and books for the use of the schools and incur all other expenses necessary to make the system efficient for the purpose for which it was established, and pay the same from the building fund of the district.

Sec. 9. The board of education shall have power to establish within the district such schools, including high schools, by such name as may be prescribed by said board, as may in its judgment be best for the interest of the district. The branches to be taught in the high school and other schools within the district shall be such as are prescribed by the board of education. The schools of the district shall be subject to such grading as the board may direct. The said high school shall be opened to the white pupils in the district, but no pupil shall be entitled to enter such school until the city superintendent shall have been satisfied that the pupil has made due proficiency in the branches taught in the other schools of the district.

Sec. 10. Admission to the various schools of the district shall be gratuitous to all children, wards and apprentices between the ages of six and twenty-one years who are actual residents within the district. Non-residents of said district may be allowed to attend the schools of the district upon the payment in advance of such tuition as the board of education may prescribe.

Sec. 11. The board of education shall establish within the district one or more separate schools for colored children, whenever it may deem it necessary, so as to afford them as far as practicable the advantages and privileges of a free school education. All such schools shall be under the management and control of the board of education, and shall be subject to like regulations as other schools of the district.

Sec. 12. Annually, on the first meeting in July, or as soon thereafter as circumstances will allow, the board shall appoint a superintendent of schools for the district, and fix his salary. Said superintendent, in addition to the duties specified in this act, shall perform such other appropriate duties with relation to the schools of the

district as the board may prescribe. When the office shall have become vacant from any cause, before the expiration of the term for which the superintendent shall have been elected, the board of education shall fill the same by appointment for the unexpired term. It shall be the duty of the superintendent to make such report to the board of education, of the character and conditions of the schools of the district as shall enable the secretary to make his required report to the county superintendent.

The superintendent shall not directly or indirectly receive any gift, emolument or reward for influence in recommending the use of any book, apparatus or furniture of any kind whatever in the schools of the district.

Upon conviction therefor, after having been given a hearing by the board, he shall be discharged from further duty.

Sec. 13. The board of education shall appoint all teachers for public schools of any grade within the said district and fix their salaries at a meeting held on the first Monday in July, or as soon thereafter as possible. But no person shall be employed to teach a school of the grade for which the appointment is made, excepting the superintendent, without having a satisfactory certificate obtained and issued as required by law in the examination of teachers for the public schools of this state. All appointments of superintendents and teachers shall be in writing, as required by law.

Sec. 14. The superintendent and teachers shall be subject in all respects to the rules and regulations adopted by the board of education and may be removed by the board of education for incompetency, profanity, cruelty or immorality, in manner and form prescribed for the removal of teachers in section thirteen of chapter forty-five of the code as amended.

Sec. 15. It shall be the duty of the board of education at its annual meeting on the first Monday in July, to ascertain as nearly as possible the amount of money, in addition to all of the available funds, which ought to be expended for school purposes in said district, to keep the schools in session at least six months in the year; for which amount the board shall levy a tax upon the property included in the district and the residents thereof, and the same shall be collected under the provisions of the general school law of the state.

Sec. 16. The board of education of the independent school district is hereby authorized and empowered at any time after this act takes effect to issue and sell the bonds of said district, and with the proceeds

erect one or more public school buildings within and for the use of the said district, such bonds to bear interest at a rate not exceeding six per centum per annum, and to become payable in not less than five nor more than twenty years from the date thereof.

Sec. 17. No indebtedness incurred under this act shall exceed, when added to any existing indebtedness of said district, two and one half per centum of the value of the taxable property of said district, such value to be ascertained by the next preceding assessment with reference to state and county taxes; nor shall such bonds be without due provision for the assessment and collection of a direct annual tax sufficient to pay annually the interest thereon; and the principal thereof at their maturity; nor unless all questions connected therewith shall have been first submitted to a vote of the qualified voters of the said district, and three-fifths of all the votes cast at such election shall have been in favor of such issue. When the board shall deem it expedient to exercise the power hereby conferred, an order shall be made and placed upon the minutes at a general meeting specifying the purpose, amount and denomination of the bonds proposed to be issued, the date of maturity and the plan adopted to meet the payment of the principal and the accruing interest. Such bonds shall be of the denomination of one hundred dollars, or a multiple thereof.

Sec. 18. The said board of education shall by special levy provide for the payment of the principal and interest on said bonds, which levy each year shall be sufficient to meet the interest on the bonds until the end of five years and thereafter to pay the interest and provide a sinking fund to liquidate all said bonds within said twenty years.

Sec. 19. At least four weeks before the election to take the sense of the voters as to any proposed issue of bonds, the president of the board shall issue his proclamation to the voters of the district, notifying them of the time and place of holding the same, and the object and purpose thereof, embodying a copy of said order, and such proclamation shall be inserted once a week for four weeks next previous to the day designated, in at least two newspapers published in the said district and posted for a period of thirty days at the front door of the court house, and at two or more other places in the district.

Sec. 20. Such election or elections, shall be held and conducted in the same manner as are general elections of state and county officers, at such time, after this act takes effect, as shall be designated by the board of education, and at its usual places of voting in said

district, and shall be held and conducted by the officers appointed by the board of education to hold such election, in accordance with the law of the state; and the officers conducting such election shall ascertain and certify the result to the secretary of said board within three days thereafter. Such result shall, within ten days after the same is certified, be noted on the minutes and the certificate filed with the clerk. The board of education is hereby vested with the power to appoint the officers required by law to hold and conduct such election.

Sec. 21. Any person voting in favor of such issue of bonds shall have upon his ballot the words written or printed, "For ratification," and any person voting against such issue, the words written or printed, "For rejection," and all ballots shall be sealed up and deposited with the said secretary. In the event that the result of such election is favorable to such issue, the board shall have authority to erect such new public school buildings, applying the proceeds of such sale to such purposes; and, should a surplus remain, to the furnishing of said buildings and payments of the interest of such bonds.

Sec. 22. The collecting officer of the state and county taxes shall be collecting officer of this district, who shall annually make such settlement, receive such compensation as provided by the general school law for collecting and disbursing district levies. But shall receive nothing for receiving and disbursing the state funds.

Sec. 23. No money shall be paid out by the officer collecting the taxes levied in said independent school district of Buckhannon except on an order signed by the president and secretary of the said board of education, and specifying on its face the particular account to which the same is chargeable, nor shall any credit be allowed to the said collecting officer in his statement, which settlement shall be annually with the said board, upon any voucher except such order.

Sec. 24. The election provided for in section one of this act, shall be by ballot, and those voting for the establishment of said 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 the words "Against independent district."

The election shall be superintended, and the result thereof ascertained and declared by election officers appointed by the county commissioners of Upshur county; and all the provisions of the election laws in this state, so far as applicable, shall be enforced and govern such election.

(House Bill No. 5.)

CHAPTER 4.

AN ACT to establish the Gassaway independent school district in the county of Braxton, state of West Virginia.

[Passed February 18, 1908. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Proposed school district; boundary lines defined.	5.	Board made a corporation; its corporate powers; terms of school.
2.	Board of education; election thereof.	6.	May establish high school; public library; admission to schools.
3.	Vacancy in office, how filled; compensation of members and secretary.	7.	Appointment of superintendent and teachers; salaries; removals.
4.	Election of president and secretary of board.	8.	Provisions of general school law.
		9.	Elections; how held and conducted.

Be it enacted by the Legislature of West Virginia:

Sec. 1. In the event a majority of the votes cast at an election to be held in Otter district at the general election to be held on Tuesday after the first Monday in November, in the year nineteen hundred and eight, be in favor thereof, all the territory now within the corporate limits of the town of Gassaway in the county of Braxton, including the Stuart addition and the Perry addition thereto, and a strip of land consisting of about thirty acres belonging to J. C. Remage, which strip extends along the west bank of Elk river from the corporate limits of the said town to the mouth of Bear creek, and a strip of land consisting of about forty-six acres, which includes all the land known as the Susan H. Kits tract of land, extending along the east bank of Elk river, just across from the Stuart addition to said town, which now belongs to the said Susan H. Kits, Roy Knapp, T. E. Friend, S. R. Atwood and the Coal and Coke railway company, shall, after the result of such election is ascertained and declared, be the Gassaway independent school district.

Sec. 2. The board of education of said independent district shall consist of three members who shall be elected by the qualified voters therein, and the term of office shall commence on the first day of July following their election. The first members thereof shall be elected at the municipal election of the town of Gassaway in the month of January, nineteen hundred and nine; one member elected at that time shall serve for the term of two years, one for the term of four years, and one for the term of six years, or until a successor has been elected and qualified. The length of the term for which each candidate is voted for shall be designated on the ballots used at said election. Thereafter the term of office of the members shall be six years, and

one member shall be elected every two years after said first election at the municipal election of the town of Gassaway.

Sec. 3. Any vacancy in the office of member of the board shall be filled by the remaining members at the first meeting of the board held thereafter, or as soon as practicable, and the person chosen to fill such vacancy shall hold his office until the next municipal election, when a successor shall be elected for the unexpired term. The members shall each receive a compensation of twelve dollars per annum; and the secretary of the board shall receive fifty dollars per annum, to be paid out of the building fund of the district.

Sec. 4. The board shall, at the first meeting held in each year, elect one of their members to act as president of the board, and at the same time elect a secretary who shall perform such duties as may be required of him by the board and by the general school law.

Sec. 5. The board of education so elected and organized, shall be a body corporate by the name of "The board of education of Gassaway independent school district in the county of Braxton", and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and may have a common seal, may purchase, hold and grant estates, both real and personal, and make such rules and regulations not inconsistent with the constitution and laws of this state, as may be necessary for the proper conduct of all the affairs of the said independent school district and may without submitting the matter to a vote of the people provide that the schools within the said district shall be taught for a longer term each year than that required by the general law.

Sec. 6. The board of education may, in addition to the regular common or graded schools provided by law, establish and maintain a high school, prescribe the branches to be taught therein and adopt such rules and regulations for entrance thereto and graduation therefrom as may be conducive to the best interests of the said school, and in addition thereto may establish and maintain a public library under such rules and regulations for the use of the books therein by pupils, patrons or others, as may be consistent with the interests of the school and the community. Admission to the schools of said independent district shall be gratuitous to all persons of lawful age residing within the independent district, and non-residents thereof may be allowed to attend the schools of said district upon such terms as the board of education may prescribe: *provided*, that pupils of Otter district shall be admitted into the high school of said independent

district by transfer as prescribed by the general school law of transferring from one magisterial district to another.

Sec. 7. The board of education shall appoint a superintendent and teachers for the said independent school district and fix their salaries at a meeting held not later than the first Monday in July in each year, and shall establish rules and regulations to which said teachers shall be subject; and remove the superintendent or any teacher, at any time, for proper cause.

Sec. 8. All the provisions of the general school law of this state, not inconsistent with this act, shall remain in full force and effect in the said independent district.

Sec. 9. The elections provided for this act shall be held and conducted by the officers of the several elections to be held, and the result thereof shall by such officers be declared; but notice of such elections shall be published in at least two newspapers of the most general circulation throughout Otter district, and the ballots to be used in said elections upon the question of establishing such district, shall have printed thereon the words "For independent district" and "Against independent district," and those in favor of the establishing of said district shall erase the words "Against independent district," and those opposed to the establishment of such independent district shall erase "For independent district," and in said election if a majority shall favor the establishment of such district, the county board of canvassers, or county court, shall declare the establishment of such district in the manner and to the extent election results are ascertained and declared.

(Senate Bill No. 41.)

CHAPTER 5.

AN ACT to amend and reenact section four of chapter eighteen of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, as amended by section one of chapter fourteen of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and four, as amended by section four of chapter twenty-seven of the acts of the legislature of West Virginia, of one thousand nine hundred and seven, concerning the salary of the judge of the criminal court of Mercer county, West Virginia.

[Passed February 18, 1908. In effect ninety days from passage. Became a law without the approval of the Governor.]

Sec.

4. Salary of judge of the criminal court; how paid.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen, section four, of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-three, as amended by chapter fourteen, section one, of the acts of the extraordinary session of the legislature of West Virginia, of one thousand nine hundred and four, as amended by section four, chapter twenty-seven, of the acts of the legislature of West Virginia, of one thousand nine hundred and seven, be amended and reenacted so as to read as follows:

Sec. 4. That the judge of said court shall for his services receive twenty-five hundred dollars, per annum, payable out of the county treasury of said county, as provided for by chapter fourteen, section one, of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and four.

(Senate Bill No. 45.)

CHAPTER 6.

AN ACT to create a criminal court of limited jurisdiction in the county of Mingo; to provide officers thereof and to fix their compensation.

[Passed March 3, 1908. In effect ninety days from passage. Approved March 6, 1908.]

Sec.

1. Criminal court established.
2. Jurisdiction concurrent with circuit court, in what cases and proceedings.
3. Election of judge; qualification; disqualified from practicing law; term of office and when to begin; removal; vacancy, how filled.
4. Salary of judge, how paid.
5. Powers and jurisdiction conferred on court; power of judge in vacation.
6. Facts authorizing jurisdiction need not be set forth upon record; jurisdiction presumed, unless, etc.
7. Powers to punish for contempt.
8. Terms of court, where held.
9. Grand jury for each term; special grand juries; what offences grand jury may consider; provisions of law applicable; how jurors chosen and empaneled; compensation.
10. Clerk of criminal court; who to be; his fees; powers; to sign all

Sec.

- processes, rules and orders; compensation of clerk.
11. Duties of sheriff of Mingo county and sheriffs of other counties as to process of court; other duties and services to be performed by the sheriff of Mingo county; powers and rights of officers executing process, etc.; additional compensation.
12. Indictments found or pending in circuit court may be certified to criminal court.
13. Change of venue; provisions of law applicable.
14. Books and stationery for court, county court to provide; also a seal; faith and credit given to records of court and to certificate of judge or clerk, whether seal be affixed thereto or not.
15. Appeals and writs of supersedeas, in what cases allowed or awarded by circuit court.
16. Appeal, writ of error, etc., how ob-

<p>Sec. tained; what law to govern proceedings; no appeal in certain cases, unless, etc.</p> <p>17. Appeal, writ of error, etc. to be docketed in circuit court; how proceeded in.</p> <p>18. In case the circuit court deems the judgment, etc. plainly right and rejects the appeal, etc., on that ground, what then.</p> <p>19. Proceedings in circuit court on appeals, writs of error, etc.; duty of clerk of court.</p> <p>20. Writ of <i>habeas corpus</i>, power to grant concurrent with that of supreme or circuit court; provisions of law governing; not to be</p>	<p>Sec. issued, unless, etc.</p> <p>21. Prosecuting attorney or his assistant to attend terms of court; what duties to perform and for what compensation.</p> <p>22. Certain sections of chapter forty-one of code made applicable.</p> <p>23. Court stenographer, judge to appoint; duties; compensation.</p> <p>24. Governor to appoint judge of court for time intervening between passage of act and election of judge; qualifications of judge so appointed.</p> <p>25. No grand juries shall be empaneled in the circuit court unless, etc.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That a criminal court of record for the trial of felonies and misdemeanors is hereby established for the county of Mingo.

Sec. 2. The said court shall have jurisdiction within the said county of Mingo concurrent with the circuit court of all felonies and misdemeanors committed within the said county of Mingo. Said court shall also have jurisdiction concurrent with the circuit court of said county, and shall have the supervision and control of criminal proceedings before justices of said county, the mayor of any incorporated city, town or village, or other police court of any incorporated city, town or village therein, by appeal, *mandamus*, prohibition and *certiorari*. It shall also have jurisdiction concurrent with said circuit court for the collection of all recognizances taken by said criminal court and for the collection of all bonds taken by said criminal court, or by the clerk thereof in vacation, to secure the payment of judgments for fines and costs rendered by said court, and for the collection of all recognizances and bonds taken by the justices of said county or the mayor of any incorporated city, town or village in said county in relation to criminal proceedings before said justices or mayor.

Sec. 3. There shall, at the general election to be held in this state on the Tuesday next after the first Monday in November, one thousand nine hundred and eight, and every four years thereafter, be elected by the legal voters of said county a judge of the criminal court of Mingo county, who shall be a resident member of the bar of said county, or a judge of the court at the time of said election, and shall be disqualified from practicing law in all of the courts of this state during his continuance in office; who shall preside over said court for the term of four years from the first day of January succeeding his election,

and shall be, except as to his term of office and jurisdiction, subject to the laws in force governing circuit court judges. The judge of said court shall be removed from office for the same reasons and in the same manner as judges of the circuit courts. And, if from any cause, the office shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of the judge of the circuit court.

Sec. 4. The said criminal court judge shall; for his services, receive a salary of not less than eighteen hundred (\$1800.00) dollars, nor more than three thousand (\$3000) dollars per annum; said amount to be fixed and paid from year to year by the county court of said county out of the funds of the said county of Mingo, as provided by the statute.

Sec. 5. The powers and jurisdiction conferred upon circuit courts in the trial of criminal cases and proceedings and modes of procedure authorized therein, within the county of Mingo, are hereby conferred upon, and shall be exercised by said criminal court of Mingo county. And the judge of said criminal court shall have the powers in vacation as to felonies, misdemeanors and other offences committed in said county of Mingo, that are conferred upon the judge of the circuit court of said county.

Sec. 6. It shall not be necessary for any cause or proceeding in said criminal court that the fact authorizing it to take jurisdiction of the case or proceeding shall be set forth upon the record but jurisdiction shall be presumed unless the contrary plainly appears by the record.

Sec. 7. The criminal court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

Sec. 8. There shall be four terms of said court in each year, commencing on the first Monday in January, the first Monday in April, the first Monday in July, and the first Monday in October. The terms of said court shall be held at the county seat of the said county at the court house thereof.

Sec. 9. The said criminal court shall empanel a grand jury at each term thereof; and said criminal court, at a special or adjourned term thereof, whenever it shall be proper to do so, may order a grand jury to be drawn and summoned to attend such term. Such grand jury may consider any offences against the law whether committed within said county of Mingo before the next preceding term or not, and whether the accused shall have been held for trial or not prior to the

next preceding regular term. And all of the provisions of chapter one hundred and fifty-seven of the code of West Virginia in regard to grand juries in the circuit court shall apply as far as applicable, to grand juries in said criminal court. The grand and petit jurors serving in said court shall be chosen and empaneled as in the circuit court and shall receive the same compensation as said jurors in the circuit court.

Sec. 10. The clerk of the circuit court of Mingo county shall act as and perform the duties of the clerk of said criminal court and shall receive the same fees as the clerk of the circuit court for similar services and exercise the same powers arising within the jurisdiction of said court. All processes, rules and orders of the said court in the exercise of its jurisdiction shall be signed by the clerk thereof, to be directed to the sheriffs of the proper counties wherein the same are to be executed; and they shall be executed in like manner and with the same effect as processes issuing from the circuit court of said county. And the county court of said county may allow said clerk a compensation for his services of not more than one thousand dollars per year.

Sec. 11. The sheriff of Mingo county, and the sheriffs of the several counties in the state, shall, by themselves or their deputies, execute all processes of said court, or issued by the clerk thereof, directed to them respectively and all processes issued by the clerk thereof shall be directed to and executed by them in the same manner as is provided by law as to processes issuing from the circuit court or the clerk thereof. And the sheriff of Mingo county shall perform the same duties and services for the criminal court of Mingo county, as he is now by law required to perform for the circuit court of said county. And in the execution of the processes, rules and orders of said court, said officers shall have the same powers and likewise be subject to the same liabilities, govern himself by the same rules and principles of law and the statutes of the state, and be entitled to the same fees as though the processes issued from the circuit court, of said county. And the county court of said county shall allow him an additional compensation therefor of not more than one thousand (\$1000.00) dollars.

Sec. 12. The judge of the circuit court may, in his discretion, certify to the said criminal court for trial, all the indictments for felonies and misdemeanors now pending in his said court and all of

which may hereafter be found by the grand juries empaneled by the said circuit court.

Sec. 13. A change of venue in any case pending in said court may be entered as provided in section fifteen of chapter one hundred and fifty-nine of the code of West Virginia.

Sec. 14. It shall be the duty of the county court of Mingo county to provide all record books and other stationery that may be necessary, and likewise a seal for the said criminal court; but full faith and credit shall be given to the record of said court and certificates of its judge and clerk whether the seal of the court be affixed thereto or not, in like manner, and with the same effect as if the same were records of the circuit court similarly authenticated.

Sec. 15. Appeals may be allowed and writs of error and *supersedeas* awarded to the judgments, rulings and orders of said criminal court by the circuit court or the judge thereof, or the judge of any other circuit court in this state in cases involving the freedom of a person or the constitutionality of a law. And where there has been a conviction in cases relating to the public revenue, the right of appeal shall belong to the state as well as the defendant.

Sec. 16. Any person who is a party to any such controversy, wishing to obtain a writ of error, appeal or *supersedeas* in the cases named in section fifteen of this act, may present to the circuit court of Mingo county or to the judge thereof in vacation, or any other circuit judge in this state a petition therefor, and sections four, five, six, seven, eight, eleven, twelve, fourteen, and sixteen, of chapter one hundred and thirty-six of the code of West Virginia, concerning appeals to the supreme court of appeals shall, so far as applicable, govern the proceedings of such appeal, writ of error, or *supersedeas* as to the duties of the petitioner, the said courts and the clerks thereof: *provided, however,* no such appeal, writ of error or *supersedeas* to said court shall be allowed unless the petition therefor be presented in six months from the date of such judgment or order.

Sec. 17. Every appeal, writ of error or *supersedeas* from said criminal court shall be docketed in the circuit court of Mingo county, and shall be proceeded with in the same manner as appeals, writs of error or *supersedeas* are proceeded in when heard and determined in the supreme court of appeals.

Sec. 18. In a case where an appeal, writ of error or *supersedeas* is to the circuit court, if the court or judge thereof deems the order or judgment plainly right and rejects it on this ground, if the order of

rejection so state, no further petition shall afterwards be presented for the same purpose; but the petition and the order of rejection, with the transcript of the record may be presented to the supreme court of appeals, or judge thereof in vacation, for an appeal, writ of error or *supersedeas* from said order of rejection. And if allowed, the same proceeding may be had thereon as if the same were a petition originally from the circuit court of said county to the said supreme court of appeals.

Sec. 19. The said circuit court wherein an appeal, writ of error or *supersedeas* has been allowed by such court or judge thereof in vacation, or any other circuit court in this state, shall, upon the hearing thereof, affirm said judgment or order if there be no error therein prejudicial to the appellant, or reverse the same in whole or in part if erroneous, and remand the same back to the criminal court to be further proceeded in and finally determined. And the clerk of said circuit court shall, as soon as practicable after the adjournment of said court, transmit the decision of said circuit court to the clerk of the said criminal court.

Sec. 20. The criminal court of Mingo county and the judge thereof in vacation shall, concurrent with the supreme court of appeals or the circuit court of said county, or any judge of any circuit court in vacation, grant the writ of *habeas corpus ad subjiciendum* as provided in chapter three of the code of West Virginia. And all provisions of said chapter shall be applicable thereto. And the same shall be governed as therein provided. But in no case shall the same be issued by the said criminal court or the judge thereof in vacation on the application of any person unless he shall by himself, or by some one in his behalf, apply for the same by petition, showing by affidavit or other evidence probable cause to believe that he is detained in the county of Mingo without lawful authority.

Sec. 21. The prosecuting attorney of Mingo county shall attend the terms of court of said criminal court either by himself or his assistant, and perform the duties of his office as required by section six of chapter one hundred and twenty of the code of West Virginia. And for his services in so doing, he shall receive not more than one thousand (\$1,000.00) dollars per annum, to be fixed by the county court of said Mingo county in addition to the amount now allowed by law to the prosecuting attorney of said Mingo county.

Sec. 22. Sections forty-one, forty-two and forty-three of chapter forty-one of the code of West Virginia shall apply to the criminal

court of Mingo county and the judge thereof in the same manner and to the same extent as they do to the circuit court of Mingo county and the judge thereof.

Sec. 23. The judge of said criminal court shall appoint a court stenographer for said court, who shall attend all the terms of said criminal court and take the evidence and transcribe the same when required so to do. And for his services he shall receive the same compensation and be paid in the same manner as stenographers in the circuit courts of this state are paid.

Sec. 24. For the time intervening between the passage of this act and the election of the judge of the said court as provided for in section three of this act, the governor of this state shall appoint and commission a proper person who shall at the time of his appointment be a resident member of the bar of said Mingo county, as judge of said criminal court, created by this act. Said judge so appointed shall, during his term of office, be disqualified from practicing law in all of the courts of this state. And he shall hold said office until the next general election and until his successor is duly elected and qualified.

Sec. 25. From and after the first term of said criminal court held under this act, no grand juries shall be empaneled in the circuit court, unless the judge of said circuit court direct a grand jury to be summoned and empaneled at a regular or special term of said court or by order entered of record.

(Senate Bill No. 50.)

CHAPTER 7. .

AN ACT to amend and reenact section nine of chapter twenty-seven of the acts of the legislature of West Virginia, passed February twentieth, eighteen hundred and ninety-nine, relating to the salary of the judge of the Ohio county criminal court.

[Passed February 26, 1908. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC. 9. Salary of judge of the criminal court; how paid; disqualified from practicing law.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter twenty-seven of the acts of the legis-

lature of West Virginia, passed February twentieth, eighteen hundred and ninety-nine, be amended and reenacted so that said section shall read as follows:

Sec. 9. The said judge shall for his services receive eighteen hundred dollars per annum, until the first day of May, nineteen hundred and eight, and thereafter twenty-five hundred dollars per annum, to be paid out of the county treasury in the same manner as the salary of the said judge is now being paid; and he shall be disqualified from practicing law in all courts of this state during his continuance in office.

(House Bill No. 20.)

CHAPTER 8.

AN ACT to provide for grading, paving, sewerage and otherwise improving the streets and alleys of municipal corporations and the method of paying for the same.

[Passed February 26, 1908. In effect from passage. Approved March 6, 1908.]

Sec.

1. Cities, towns and villages with a population of one thousand or more, authorized to issue bonds for the purpose of paving, etc.; cities, towns and villages authorized to sell bonds; not to be sold below par value; shall be payable in not to exceed ten years; interest not to exceed six per centum; shall be governed by restrictions of the constitution of this state; assessments to be applied to the liquidation of bonds; if any balance, it shall be turned into city treasury; debt shall not exceed five per centum of value of taxable property; all other debts not to exceed two and one half per centum on the value of the taxable property; chapter fifty-one of the acts of nineteen hundred and five applicable; to provide for the collection of a direct annual tax; all assessments, etc., to be applied to the annual tax.

2. How council or other body or bodies may order, paving, etc. done; contract for improvement to be advertised; contract may be rejected; to be let to lowest responsible bidder; contractor to look to city, town or village for payment; total cost of improvement to be paid by abutting property owners, except on streets where street car or other tracks are located; what portion to be paid by street or other rail-

Sec.

way company; city, town or village to pay for squares at intersection of streets; cost of sidewalks to be borne by adjacent property owners in proportion to their frontage; city engineer to measure, and calculate assessment upon each land owner, and certify the same to council or other body or bodies; council or other body to examine assessments and certify same; notice to be given by publication of assessment; notice to be published in two newspapers for two weeks; owners to have the right to appear before council or body or bodies to have corrections in assessments made; council or body or bodies to have power to make corrections; assessments to be certified and entered of record; assessments to be certified to treasurer for collection; assessments to be certified to county court; how assessments to be paid; assessments to bear interest; rate of interest; assessments unpaid to bear additional interest; liens to have priority over all other liens, except; treasurer to deliver release of assessments when paid in full; auditors duty in such case.

3. Construction of sewers; how assessments paid; engineers duty as to construction of sewers; amount to be paid by each lot owner, notice of assessments to

Sec.

- be given by publication; lot owners may apply for corrections in assessments; power of council or body or bodies as to such corrections; to certify assessments to treasurer for collection; must certify to county clerk; how assessments to be paid; what the board of health may require; board of health's duty; failure to comply with order of board of health, a misdemeanor; punishment for such failure; who shall have the right to hear and try such cases; liens upon real estate; where liens to be filed.
4. Duty of common council or other body or bodies of cities with population of one thousand or more as to paving, curbing, etc., plans, specifications, etc., to be on file in office of city recorder; to be open to inspection of persons interested; what resolutions of council to contain; how assessments to be paid; resolution to be published for two weeks in two newspapers of opposite politics; resolution to be recorded in record of council; resolution to be in effect after first publication; if no newspapers in such corporation notice to be posted, where.
 5. Notice of resolution to be served on owners of each piece of property to be assessed; how such notice to be served; if a non-resident, how notice to be given; notice of publisher to be *prima facie* evidence of service; how notice upon infants may be served.
 6. Municipalities to pay the cost of paving intersections, except; property once assessed, shall not be reassessed for more than one half of expense, unless the grade is changed; to what this exemption does not apply.
 7. Cities, towns or villages of one thousand or more authorized to sell its bonds for the purpose of paying its part of cost for improvements as required by this act; may levy additional tax to pay on bonds and interest; indebtedness for all purposes not to exceed five per centum of the total value of all taxable property.
 8. Council or other body or bodies to determine whether it will proceed with improvement or not, and if decided to proceed an ordinance for the purpose shall be passed; what ordinance to contain.

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9. In case special assessments have been made or hereafter made for improvements, etc.; in case of construction of sewers, section five of this act applicable.
10. No public improvement to be made without three-fifths of members of council or body or bodies having charge of improvement agreeing thereto, unless the owners of a majority of the foot frontage to be assessed petition in writing therefor; a majority having such matters under control may authorize such work to be done.
11. Improvements that passes through any public market place, or park, etc., belonging to city, county or state, etc., to be certified to county court; to be recorded on proper trust deed book; to constitute lien against said property; duty of persons having charge of such property.
12. What assessments under this chapter shall include.
13. Time suit for damages against the corporation may be instituted.
14. Council or body or bodies to secure speedy completion of work at a reasonable cost, and speedy collection of assessments after time has elapsed for their payment.
15. This act to apply to cities, towns or villages with a *boni fide* resident population of one thousand or more persons.
16. Bonds shall not be issued without being submitted to vote of people; must receive three-fifths of all votes cast; may provide for election each year at which the question shall be submitted to the people as to whether bonds are to be issued or not; what ordinance of council or body or bodies shall contain; the aggregate amount of bonds authorized by said annual election shall not be exceeded, unless authorized by a special election; chapter forty-seven of the code to apply to the annual bond election.
- 16-a. Cities, towns and villages to which this act does not apply.
17. Act not applicable to certain provisions of law unless, etc.; council on petition of one hundred voters and property owners shall submit question of bond issue, etc., to vote of people for ratification or rejection; how election shall be held; what ballots to contain; how returns to be made and result declared.
18. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. All municipal corporations incorporated by special act or otherwise for the government of cities, town and villages in this state, and having a population of one thousand or more, are hereby author-

ized to issue their bonds for the purpose of providing for grading, paving, curbing and otherwise improving the streets and alleys of said municipal corporation, or constructing sewers for the proper drainage of such corporations, in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, or property so sewerred or drained, and such bonds may be in such an amount as shall be sufficient to pay the entire estimated cost and expense of said improvements for which such special assessments are levied; said cities, towns and villages are also authorized to sell said bonds: *provided*, that the price for which they are sold shall not be below the par value of said bonds; said bonds shall be payable in not to exceed ten years from the date of the issue thereof and shall bear interest at not to exceed six per centum per annum, payable annually; and in the issuance and sale of said bonds, the municipality shall be governed by all the restrictions and limitations of the constitution of this state and the restrictions and limitations of the statute of this state with respect to the issuance and sale of other bonds so far as they are not in conflict with the provisions of this chapter; and the assessments as paid and provided for in this chapter shall be applied to the liquidation of said bonds and the interest thereon; and if by reason of the penalties collected with the delinquent assessments there be any balance after the payment of said bonds and all accrued interest and costs, the said balance shall be turned into the city treasury to the credit of the interest and sinking fund of the city, town or village.

Provided, that no such corporation shall by sale or issue of such bonds cause the aggregate of its debt of every kind whatsoever to exceed five per centum on the value of taxable property therein: and *provided, further*, that nothing herein contained shall be construed as authorizing any such municipal corporation to become indebted in any other manner or for any other purpose, to an amount including the existing indebtedness in the aggregate exceeding two and one half per centum on the value of the taxable property therein (as provided in chapter fifty-one on the acts of nineteen hundred and five) except for the purpose of grading, paving, sewerred and otherwise improving the streets and alleys of said municipal corporation as provided for in this act; nor shall they make such issue and sale without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding ten years.

All of the assessments, interest and penalties thereon, collected from the abutting property owners on account of grading, paving, sewerage or otherwise improving the streets and alleys of any such city, town or village, under the provisions of this chapter, shall annually be applied to the annual tax required to pay the interest on such debt and such principal within and not exceeding ten years; and in the event that the assessments, interest and penalties so collected do not amount to a sum sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding ten years, then the council of any city, town or village shall collect so much of said levy as will pay annually the interest on such debt and the principal thereof within and not exceeding ten years.

Sec. 2. Whenever the common council or other body or bodies having such matter in charge under the charter of any such municipal corporation shall deem it expedient to cause any street or alley in said city, town or village, or portion thereof to be paved, curbed or macadamized or otherwise improved in a permanent manner, upon the petition in writing of persons owning the greater amount of the frontage of the lots abutting on both sides of any street or alley, between any two cross streets or between a cross street and an alley, it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall after due advertisement in which the council or other body or bodies having such matters in charge under the charter shall reserve the right to reject any and all bids, be let, if let to the lowest responsible bidder. The contractor shall look only to the city, town or village for the payment of the work, and in no sense to the abutting land owners. The total cost of curbing, grading and paving or otherwise improving any such street or alley, with the exception in the case of a street occupied by street car tracks or other railways of the distance between the rails and two additional feet outside of each rail, which portion shall be borne and paid entirely by the street car or other railway company operating such street or other railway (unless otherwise provided by the franchises of such street car or other railway company granted previous to the passage of this act) shall be borne by the owners of land abutting upon said street, alley or portion thereof, according to the following plan, that is to say: Payment is to be made by all land owners on either side of such portion of a street or block so paved or improved, in such portion of the total cost, less the portion, if any, chargeable to such street or other rail-

way company, as the frontage in feet of his land so abutting bears to the total frontage of all land so abutting on such street, alley or portion thereof so paved or improved as aforesaid. The cost of such paving or improvement chargeable to the abutting owners is not to include any portion or amount paid for paving of squares at intersection of streets which shall in all cases be borne and paid by the city, town or village. It is especially provided however that where in any case the charter of any city, town or village granted by the act of the legislature heretofore passed or amended by any subsequent act provides that the cost or any part thereof of paving the streets (exclusive of intersections) shall be paid by the abutting property owners, then there shall be assessed against said abutting property owners their proportionate part of the cost of said street paving upon the basis fixed in said charter or special act amendatory thereof: *provided*, that in the case of sidewalks the cost shall be borne by the adjacent property owners in proportion to their frontage.

When the paving of any street, or alley, or portion thereof, shall have been let to contract, and the work done as hereinbefore provided, it shall be the duty of the engineer of such city, town or village to cause the several frontages abutting thereon to be measured and to calculate the assessment upon each and every land owner so abutting and to certify the same to the council or other body or bodies having such matters in charge under the charter, showing the proper amount to be determined as provided in the foregoing plan. It shall be the duty of the council or other body or bodies having such matters in charge under the charter to examine and compare such assessment, amounts and names so certified to it, and thereupon said council, or other body or bodies having such matters in charge under the charter, shall give notice by publication for two successive weeks in some newspaper published in said city, town or village, that an assessment under this section is about to be laid against the abutting property for paving or improvements done on said streets or alleys, describing the location of such paving or improvements, and any owner or owners thereof shall have the right to appear before said council, or body or bodies having such matters in charge under the charter within two weeks from the first publication thereof and move said council to correct any apportionment or assessment excessive or improperly made as charged, which corrections said council or other body or bodies having such matters in charge under the charter, shall have the power to make, and if found to be correct or when corrected by the

council, or other body or bodies having such matters in charge under the charter, as aforesaid, it shall enter the same together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and to enter in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them, respectively, and when so approved, certified and entered of record the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council or other body or bodies having such matters in charge under the charter, to immediately certify such assessment to the treasurer for collection as herein provided, and a copy of said order shall be certified by the recorder to the clerk of the county court of the county wherein said property is situated, who shall be required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amounts so assessed against said abutting land owners shall be paid in ten payments as follows: That is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city, town or village, before the first day of May next after said work is completed and said assessments have been certified to the county clerk. And a like one-tenth together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year thereafter until all has been paid and each of said installments of one-tenth, beginning with the first shall bear interest on the amount of said installment at six per centum per annum from the date of the record of same in the county court clerk's office until paid: *provided, however*, that any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessment with interest at six per centum per annum only to the time of payment.

To each of such installments of assessments remaining unpaid in the treasurer's hands on the days herein specified for the payment thereof, a penalty of ten per centum shall be added and any assessments so remaining unpaid in the treasurer's hands on such date, shall be taken up by the council, or other body or bodies having such matters in charge under the charter, on such settlements had with

the treasurer on such dates, and thereupon such council or other body or bodies having such matters in charge under the charter, shall place such assessments with the penalty added thereto, in the hands of the city sergeant or other officer of such city, town or village whose duty it is to collect delinquent taxes and assessments, to be treated and considered, and payment thereof enforced in all respects as hereinbefore provided for the collection of taxes due the city, town or village, and they shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for taxes.

The liens hereinbefore provided for shall have priority over all other liens except those for taxes due the state and shall be on a parity with taxes and assessments due the city. Whenever all such assessments for paving, sewerage, or curbing, macadamizing or other improvements shall be paid in full to the treasurer he shall deliver to the party paying the same a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens, and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full to any officer entitled to receive the same, such auditor or the mayor, in cases where the corporation has no auditor, may in like manner execute such release.

Sec. 3. Whenever the council or other body or bodies having such matters in charge under the charter shall order the construction of any public sewer in any city, town or village, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessment as follows: When said sewer is completed the engineer of such city, town or village, shall report to the council, or other body or bodies having such matters in charge under the charter, in writing, the total cost of such sewerage and a description of the lots of land as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained together with the amount chargeable against each lot and owner, estimated on the basis of one dollar per foot for inside lots, and one dollar and twenty-five cents per foot for corner lots, frontage measures on said sewer being considered, except that such estimate as to corner lots fronting thereon and having a greater depth than one hundred and fifty feet shall be estimated at one dollar and fifty cents per foot frontage, and any lot having a

depth of two hundred feet or more and fronting on two streets, one in the front and another in the rear of said lot, shall be assessed on both of said streets, if a sewer is constructed on both streets, or if fronting on a street and running back two hundred feet or more to an alley, shall be assessed on both the street and the alley if a sewer shall be constructed in both street and alley; where a corner lot has been assessed on one end it shall not be assessed on the side; and thereupon said council, or other body or bodies having such matters in charge under the charter, shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council, or other body or bodies having such matters in charge under the charter, as are prescribed with reference to paving, which report shall in like manner be examined by the council, or other body or bodies having such matters in charge under the charter, and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer, it shall enter an order upon its records setting forth such location, depth, ownership and said amount of such sewer assessment, against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and if after such advertisement, notice and hearing said council, or other body or bodies having such matters in charge under the charter, shall find that such apportionment at such rate is unjust, or inequitable, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably, and in like manner assess and enter the amount so fixed respectively upon its records, and the council, or other body or bodies having such matters in charge under the charter, shall in either event thereupon certify the same to the treasurer for collection, and certify a copy of such order to the clerk of the county court of the county wherein said abutting property is situate, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city, town or village. Said amounts so assessed against the said several land owners shall be paid by the par-

ties liable therefor to the said treasurer at all times in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall in the same manner and to the same extent have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owner or owners of any lot abutting on any street or alley in said city, town or village, on which a public sewer is or may hereafter be laid and constructed upon which lot any business or residence building is or may hereafter be erected, not connected with a public sewer, may be required and compelled by the board of health to connect any such building with such sewer. Notice to so connect may be given by the board of health either to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, after ten days after such notice is given, shall be a misdemeanor and a separate and new offence under this section, and each such offence shall be punishable by fine not less than five nor more than twenty-five dollars. Jurisdiction to hear, try, determine and sentence for violation of this section is vested in the police court of such city, town or village, or in the mayor where no police court exists.

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

Sec. 4. Whenever it is deemed expedient by the common council of any city, town or village, or other body or bodies having such matters in charge under the charter, having a population of one thousand or more, to provide for the grading, paving, curbing, sewerage, macadamizing or otherwise improving any street or alley therein, to be paid for in whole or in part by special assessments, said council, or other body or bodies having such matters in charge under the charter, shall declare by resolution, three-fifths of the whole number elected thereto concurring, by an aye and no vote, the necessity of

such improvement. At the time of the passage of said resolution the council, or other body or bodies having such matters in charge under the charter, shall have on file in the office of the city recorder or town clerk, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvement, after completion, with reference to the property abutting thereon, which plans, specifications, estimates and profiles shall be open to the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the curbs, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement.

Council, or other body or bodies having such matters in charge under the charter, shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications, whether by an appropriation from funds in the treasury unappropriated, or whether or not bonds shall be issued in anticipation of the collection of special assessments to be made against the abutting property owners as provided for in section two of this chapter. Assessments shall be payable in ten installments as provided for in said second section. The resolution herein provided for declaring the necessity for said improvement shall be published at least once a week for two successive weeks after its adoption in two newspapers of general circulation, and of opposite politics in the city, town or village in which said improvements are to be made, and an affidavit of the publisher showing publication for such time, together with a copy of said notice attached, shall be filed with the recorder or clerk of the council, or other body or bodies having such matters in charge under the charter, and spread upon the record of the minutes of the next meeting of the council, or other body or bodies having such matters in charge under the charter. Where there are not two newspapers of general circulation and of opposite politics in the city, town or village, publication in one newspaper of general circulation for the required time, shall be all that is required for this or any other notice provided for by this chapter. Said resolution shall be in effect from and after the first publication thereof as herein provided for. If there be no newspaper in such corporation, the notice may be given by posting on the front door of the building where the council, or

other body or bodies having such matters in charge under the charter, of such corporation holds its meetings.

Sec. 5. A notice of the passage of the resolution required in the last preceding section, embodying a copy of said resolution shall be served upon the owner of each piece of property to be assessed, said service to be made in the manner provided in section one of chapter one hundred and twenty-one of the code: *provided*, that if any of the owners or persons be not residents of the county wherein said improvement is proposed, or if it appears by the return, in any case, that the owner cannot be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in the city, town or village in which said improvement is proposed to be made, once a week for two successive weeks, and such notice whether by service or publication shall be completed at least three days before said improvement is begun or the assessment is levied, and the return of the officer serving such notice or a certified copy of said return, or where published, the certificate of the publisher of said newspaper, shall be *prima facie* evidence of the service of the notice as herein required. Notice upon infants may be served on their guardian and upon insane persons by service upon their committee.

Sec. 6. In all municipalities the corporation shall pay the cost of paving the intersections at all cross streets (but not including the places where private alleys or private crossings cross the sidewalk, which shall be paid by the owner or owners of said private alley or crossing at the time the paving is laid on said crossing): *provided*, that whenever special assessments shall have hereafter been levied and paid under the provisions of this chapter for any improvement made after this act becomes a law, for the improvement of any street or other public place (other than sidewalks) the property so assessed shall not again be assessed for more than half the cost and expense of repaving or repairing such street or other place unless the grade be changed; but this exemption shall not apply to the paving or repairing of streets or other public places which were paved or improved before the passage of this act.

Sec. 7. It shall be lawful for any city, town or village of over one thousand inhabitants, within this state, to issue and sell its bonds as provided in this chapter for the sale of other bonds, to pay the corporation's part of the cost of said improvements as required by this act, and may levy taxes in addition to all other taxes authorized by law, to pay such bonds and interest thereon: *provided*, that the total

indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

Sec. 8. At the expiration of the time for the giving and publication of the notices as provided for in section five, the council, or other body or bodies having such matters in charge under the charter, shall determine whether it will proceed with the proposed improvement or not, and if it decides to proceed therewith, an ordinance for the purpose shall be passed; said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvement, shall contain a statement of the general nature of the improvement and the character of the materials which may be bid upon therefor; of the mode of payment therefor, a reference to the resolution theretofore passed for said improvement, giving the date of its passage and a statement of the intention of the council, or other body or bodies having such matters in charge under the charter, to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvement.

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

Sec. 9. In any case in which special assessments have been made or shall hereafter be made, upon property for the construction of any improvements authorized by this chapter, and several kinds of material have been named in the ordinance or ordinances providing for the same, and on which bids have been received for the construction of said improvements with any, either or all of said materials, said assessments shall be valid and binding assessment upon the property so assessed. In the case of the construction of sewers required under the provisions of this chapter, notice of the passage of said resolution therefor, as provided for in section five of this act, shall be made in the manner provided for in said section five of this chapter.

Sec. 10. No public improvement, the cost or part of the cost of which is to be especially assessed on the owners of property, shall be made without the concurrence of three-fifths of the whole number of members elected to the common council or other body or bodies hav-

ing such matters in charge under the charter, unless the owners of a majority of the foot frontage to be assessed, petition in writing therefor, in which event the council or other body or bodies having such matters in charge under the charter, shall be authorized (a majority of the whole number elected thereto concurring) to proceed with the improvement in the manner herein provided for.

Sec. 11. When the whole or any portion of the improvement authorized by this chapter passes through or by a public wharf, market space, park, cemetery, structure for the fire department, waterworks, school building, infirmary, market house, workhouse, hospital, house of refuge, bridge, gas works, public prison, court house, church, or any other public structure or public grounds within said corporation, and belonging to said corporation or to the county, state, or any church, association, or eleemosynary institution, the council or other body or bodies having such matters in charge under the charter, may authorize the proper proportion of the estimated costs and expenses of the improvement to be certified to the clerk of the county court of the county wherein said corporation is situate, and the same shall thereupon be recorded by said clerk in the proper trust deed book and shall thereupon become a lien against said property and collectible as other assessments are collected against individuals under this chapter and it shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make proper arrangements for meeting of such assessments when due and payable.

Sec. 12. The cost of any improvement contemplated in this chapter and for which assessments may be made, shall include the cost and expenses of the assessment, the expense of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices on property owners, and the cost of construction.

Sec. 13. No person who claims damages, arising from any cause due to or arising out of said improvements, shall commence a suit therefor against the corporation within sixty days after the completion of the improvements, in order that the corporation may take such steps as it may deem proper to settle or adjust the claim.

Sec. 14. Proceedings with respect to improvements shall be liberally construed by the council, or other body or bodies having such matters in charge under the charter, and court, to secure a speedy completion of the work at a reasonable cost, and the speedy collection of the

assessments after the time has elapsed for their payments, and merely formal objections in such cases shall be disregarded.

Sec. 15. This chapter shall only apply to cities, towns and villages within the state of West Virginia which have a *bona fide* resident population of one thousand or more persons.

Sec. 16. It is especially provided that no bonds shall be issued under the provisions of this chapter, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the municipality within which the improvements are proposed, and shall have received three-fifths of all votes cast at said election for or against the same. The common council, or other body or bodies having such matters in charge under the charter, of any municipality authorized to issue bonds under the provisions of this chapter, may provide by ordinance for an election every year, at which the question shall be submitted to the people as to whether the municipality shall be authorized to issue bonds for the purpose and under the provisions of this chapter, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, but before issuing any such bonds council or other body or bodies having such matters in charge under the charter, shall pass separate ordinances for each street or alley to be improved, dealing with all the requirements set forth in section eight of this chapter and notwithstanding the provisions of sections two, three, and six of chapter forty-seven-a of the code, it shall be sufficient description of the purpose for which said election is held if the ordinance calling the same shall recite that it authorizes the common council or other body or bodies having such matters in charge under the charter of the city, to issue bonds for the purposes of grading, paving, sewerage or otherwise improving the streets and alleys of said city, town or village, at such times as to the council, or other body or bodies having such matters in charge under the charter, shall seem fit during the ensuing year ending on the _____ day of _____ 190—, to an amount not exceeding in the aggregate during said year the sum of \$———; and when the council or other body or bodies having such matters in charge under the charter, shall have once been authorized by a vote of the people to issue bonds for the said purposes and to a sum not to exceed the amount set forth in

the ordinance calling the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance calling said election, but the council or other body or bodies having such matters in charge under the charter, shall from time to time during said ensuing year by ordinance authorize the issue of said bonds, in such sums and for the improvement of such streets or alleys as to it may seem best, providing the requirements of this chapter are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said ensuing year, unless and except the same be authorized by a special election held at a subsequent time in said year and duly called as provided for the calling of the annual bond election.

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

Sec. 16-a. *Provided*, that this chapter shall not apply to cities, towns and villages wherein all public improvements have been paid for out of a general fund collected by assessment on all the property in such cities, towns and villages for a period of the past twenty-five years or more.

Sec. 17. It is further provided that this act shall not apply to the issue of bonds, nor affect the manner of issuing same, as now authorized by the code of West Virginia or the charter of any city, town or village in this state, until the question of the adoption of this act shall have been first submitted to a vote of the voters of such city, town or village and a majority of all the votes cast at the election submitting same shall have been cast in favor of the adoption of this act.

The common council, or other body or bodies having such matters in charge under the charter, of any city, town or village having a population of over one thousand inhabitants, upon the petition of one hundred voters and property owners, shall at the next session of such council, order that the method of paving, sewerage and otherwise improving the streets and alleys of said municipality and of issuing bonds to pay for same as herein provided for, shall be submitted to the voters of such municipality for ratification or rejection, and shall in the manner prescribed by law call a special election for said purpose. Said election shall be held under the laws governing other city

elections, the voting upon said question shall be by ballot, and those voting for the adoption of this chapter shall have written or printed upon their ballots the words "For adoption of new method of paving streets" and those voting against said chapter shall have written or printed upon their ballots the words "Against the adoption of new method of paving streets." The said election shall be conducted and the returns thereof made and the result declared in the same manner provided for holding, ascertaining and declaring the result of other city elections within said municipality.

Sec. 18. All acts and parts of acts, whether special or general, and all provisions of any act incorporating any city, town or village or amending the charter of same and which are in conflict with the provisions of this act so far as it applies to the manner of providing for the grading, curbing, paving, sewerage and otherwise improving the streets and alleys of any municipal corporation or the issuing of bonds to secure funds for paying for the same, are to that extent repealed.

(House Bill No. 17.)

CHAPTER 9.

AN ACT to regulate the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts, and municipal corporations, and to provide penalties for the illegal expenditure of public moneys, incurring of illegal obligations and the laying of illegal levies by any tax-levying body, and for the distribution of a portion of the school fund.

[Passed February 19, 1908. In effect ninety days from passage. Approved February 26, 1908.]

Sec.

1. County courts, boards of education and common councils shall hold sessions, when and for what purposes.
2. What county court to ascertain: to make up itemized statements; what statements to contain; clerk to publish statements; session to adjourn, until when; to reconvene for what purpose; duty of court as to objections to estimate and proposed levy; failure of officer or taxpayer to offer objection not to preclude him from pursuing legal remedy; duty of court, if objections appear to be well taken; amount to be levied by county court; not in excess of, for certain purposes, unless, etc.:

Sec.

- special bridge levy in what counties.
3. What board of education to ascertain to make up itemized statements; what statements to contain; statements to be published and posted; session to adjourn until when; to reconvene for what purpose; rate of levy to be fixed by board; if board maintains high school what then; when levies may be increased; if maximum levy for teachers fund does not produce sufficient revenue, what then; when salaries of teachers may be fixed above the minimum; balance of general school fund withheld from per capita distribution; how disposed of.

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| <p>SEC.</p> <p>4. What common council of every municipal corporation to ascertain; to make up itemized statement; what statement to contain; statement to be published; when to lay levy; maximum levy.</p> <p>5. Additional levy, how made; maximum levy; question of additional levy to be submitted to voters; funds arising from levy to be used for what purpose; how ballot prepared and election conducted.</p> <p>6. Special district levy; county court to approve; to be submitted to vote; maximum rate.</p> <p>7. How and when elections held; form</p> | <p>SEC.</p> <p>of ballot; result of election; duty of clerk of county court, secretary of board of education or clerk of municipal corporation.</p> <p>8. Special debt levy; when may be laid; maximum amount; to be used for certain purpose; duty of treasurer of funds arising from special debt levy; if balance remains how disposed of.</p> <p>9. Certain acts prohibited; penalties.</p> <p>10. Duty of state tax commissioner as to forms and instructions; duty of attorney general as to forms and instructions for holding elections.</p> <p>11. Conflicting acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. The county court of every county, the board of education of every school district and independent school district, and the common council of every municipal corporation, shall hold a session on the second Tuesday in August in each year, for the transaction of business generally, and especially for the transaction of business as herein required.

Statement and levies made by county courts.

Sec. 2. At such session the county court shall ascertain the condition of the fiscal affairs of the county, and make up an itemized statement thereof, which shall set forth in detail:

(a) The amount due, and the amount that will become due and collectible, from every source, except from the levy of taxes to be made for the year, during the current fiscal year, to the county as a whole and to the road fund and any other fund of any district of the county;

(b) The debts and demands owed by the county as a whole, and the debts and demands payable out of the road or other fund of any district thereof, including debts and demands that will become due and payable during the year by the county as a whole or out of the funds of any district thereof, including interest on any indebtedness, funded or bonded or otherwise;

(c) All other expenditures, under the several heads of expenditures to be made and payable out of the levy of the current fiscal year, whether by the county as a whole or out of the road fund or other fund of any district thereof, including cost of collection of taxes and other claims, and proper allowance for delinquent taxes and contingencies.

The said statement shall also set forth the total amount necessary to be raised by the levy of taxes for the current fiscal year, the assessed value of the property of the county, personal, real estate, and the property assessed by the board of public works, the rate of such levy proposed on the property of the county as a whole, and on the property in each district for district funds, and on the property in each municipal corporation. A copy of such statement duly certified by the clerk of the court, shall be published twice (at least one week intervening between the publications) in two newspapers of general circulation published in the county, and of opposite politics. If there be but one newspaper published in the county, the publication shall be made therein. The session shall then stand adjourned until the fourth Tuesday in August, at which time it shall convene; and it shall then be the duty of said court to hear and consider any objections made orally or in writing, by the prosecuting attorney, by the state tax commissioner or his representative, or by any taxpayer of the county, to said estimate and proposed levy, or any item thereof. It shall be the duty of the court to enter an order of record showing the objections so made, setting forth the reasons and grounds for such objections. But the failure of any officer or taxpayer to offer objection as herein provided shall not preclude him from pursuing any legal remedy necessary to correct any levy laid by any tribunal named in this act. After said objections have been made and heard, the court shall thereupon reconsider the proposed original estimate and proposed rate of levy; and if the objections thereto or any part thereof appear to be well taken, the court shall correct the same accordingly, and it shall thereupon be approved, and when approved shall, with the order approving it, be entered by the clerk in the proper record book. The county court shall thereupon levy so many cents on every one hundred dollars of valuation of the taxable property in the county, according to the last assessment thereof, as will produce the amount shown by the statement approved necessary to be raised for county purposes during the fiscal year, and it shall levy so many cents on every one hundred dollars of valuation of the taxable property in any district of the county, according to the last assessment thereof, as will produce the amount shown by said statement necessary to be raised by taxation upon the property of said district during the fiscal year: *provided, first*, that the aggregate of the levies so made for county purposes and district purposes shall not exceed, for the year nineteen hundred and eight, in the county, or

in any district or municipal corporation therein, the sum of thirty-five cents on each one hundred dollars of said valuation; and shall not exceed after the said year the sum of thirty cents on each hundred dollars of said valuation: *provided, second*, that in any county where the aggregate valuation of the taxable property in any year is less than two and one-half times that of the year nineteen hundred and four, and the county court is of the opinion that the maximum rate of levy herein named is insufficient, with other funds and revenues, for all county and district road purposes, and is further of opinion that it is not expedient to submit to the voters the question of additional levy as provided in section five, or of special levy as provided in section six, the county court may for any such year lay a levy in cents on each one hundred dollars of such taxable property of such portion of one hundred and four cents as the aggregate of the taxable property in the year nineteen hundred and four bears to the aggregate thereof in the year for which such levy is to be laid; as, for instance, to illustrate: In any such case, where the said aggregate in such year is double that of the year nineteen hundred and four, the maximum levy in any such county and district thereof for such year shall not exceed fifty-two cents on each one hundred dollars of said valuation for said purposes: *provided, third*, that the county court of any county having no debt, bonded or funded or otherwise, and which does not lay a levy exceeding that prescribed in the first proviso of this section, may in the year nineteen hundred and eight lay a levy not exceeding ten cents on each one hundred dollars of valuation of the taxable property of the county, to be called special bridge levy, for the purpose of building bridges; and such levy may be continued for four successive years after said year of nineteen hundred and eight. The fund arising from such levy shall be used for the purpose herein designated, and no other.

Statement and levies by boards of education.

Sec. 3. At its session held on the second Tuesday in August, as aforesaid, the board of education of every district or independent school district shall ascertain the condition of the fiscal affairs of the district, and make up an itemized statement thereof, which shall set forth in detail:

(a) The separate amounts due the building fund and the teachers' fund of the district, and the amounts that will become due

thereto and collectible during the current fiscal year, from every source, including the amount to be received from the general school fund, but excepting the amount that will be produced by the levy of taxes to be made for the year;

(b) The debts and demands owed by the district, and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded or bonded or otherwise, distinguishing between those payable out of the building fund and those payable out of the teachers' fund;

(c) All other expenditures, under the several heads of expenditures, to be made and payable out of the funds of the district for the current fiscal year, distinguishing between those payable out of the building fund and those payable out of the teachers' fund, and including the cost of collection of taxes and other claims; with proper allowance for delinquent taxes and contingencies. Said statement shall also set forth the separate amounts necessary to be raised for each of said funds by the levy of taxes for the current fiscal year, and the proposed rates of levy of taxes, in cents on each one hundred dollars of assessed value, on the taxable property of the district for each of said funds; and also the aggregate of the taxable property of the district, stating separately the assessed value of personal property, of real estate, and of the property assessed by the board of public works. A copy of such statement duly certified by the secretary of the board, shall be published as provided in section two, and posted in each post office in the district at least eight days before an adjourned meeting of the board to be held on the fourth Tuesday in August; at which time the board shall reconvene and proceed in all respects as provided in section two. After having entered the said statement, as finally approved, in its book of record of proceedings, the board shall thereupon levy as many cents on each one hundred dollars of the assessed valuation of the property of the district, according to the last assessment thereof, as will produce the amount shown by the said statement necessary to be raised for the building fund, and levy in like manner the amount as shown by said statement to be necessary for the teachers' fund to continue the schools in such district for the term of six months or for a longer term where such may be established by or according to law: *provided, first*, that the levy for the building fund shall not exceed fifteen cents on each one hundred dollars of said valuation for the year nineteen hundred and eight, and shall not

exceed twelve and one-half cents after that year; nor exceed twenty-five cents on each one hundred dollars of said valuation for the teachers' fund: *provided, second*, that if such board of education in a city of less than ten thousand population maintains a high school in such district, or maintains a high school in connection with one or more other districts, the board may levy for the support of said high school in any one year not to exceed ten cents on each one hundred dollars of said valuation: *provided, third*, that school districts and independent districts having outstanding bonds, may increase the levies aforesaid by an amount sufficient to pay the interest on such bonds and the principal thereof in the time provided in the issue of such bonds, but the proceeds of such additional levy may be used for that purpose and no other: *provided, fourth*, that if said maximum levy of twenty-five cents for the teachers' fund shall not produce sufficient money, with the other sources of revenue, including any balance to the credit thereof in the hands of the treasurer and the amount of the general school fund apportioned to the district, to pay the salaries of the necessary number of teachers, at the minimum rate of salary fixed by law, for the schools of the district for the term of six months, it shall be the duty of the state superintendent of free schools to deposit with the treasurer of the board of education, to the credit of the teachers' fund, a sufficient amount to make up such deficiency; and the said state superintendent is authorized to withhold from the distribution made on the per capita basis a sufficient amount of the general school fund, not exceeding in any one year fifty thousand dollars, for this purpose. If it shall appear to said state superintendent that a sufficient number of teachers of the proper grade for the schools of such district cannot be procured at the minimum rate of salary, owing to the payment of larger salaries in neighboring districts or elsewhere in the state, he may fix the salaries of such teachers above the minimum, but not above the salaries paid teachers of like grades in neighboring districts. Any balance of the general school fund withheld from the per capita distribution for such schools, as aforesaid, in any year, shall revert to said fund at the close of the year.

Statement and levy by municipal councils.

Sec. 4. At its session held on the second Tuesday in August, as aforesaid, the common council of every municipal corporation shall

ascertain the condition of the fiscal affairs thereof, and make up an itemized statement of the same, which shall set forth in detail:

(a) The amount due the municipality, and the amount that will become due thereto and collectible during the current fiscal year, from every source, but excepting the amount that will be produced by the levy of taxes to be made for the year;

(b) The debts and demands owed by the municipality, and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded or bonded or otherwise;

(c) All other expenditures, under the several heads of expenditures, to be made and payable out of the funds of the municipality for the current fiscal year, including the cost of collection of taxes and other claims, with proper allowance for delinquent taxes and contingencies. Said statement shall also set forth the total amount necessary to be raised by the levy of taxes for the current fiscal year, and the proposed rate of levy of taxes on the property of the municipality; and also the aggregate of the taxable property in the municipality, stating separately the amount of personal property, of real estate, and of the property assessed by the board of public works. A copy of such statement duly certified by the clerk, recorder or other recording officer of such municipality, shall be published as provided in section two, and posted at each voting place in the municipality at least eight days before an adjourned meeting of the common council to be held on the fourth Tuesday in August; at which time the council shall reconvene and proceed in all respects as provided in section two. After having entered the said statement, as finally approved, in its book of record of proceedings, the council shall thereupon levy as many cents on each one hundred dollars of the assessed valuation of the property of the municipality, according to the last assessment thereof, as will produce the amount shown by the said statement necessary to be raised for municipal purposes during the fiscal year: *provided*, that such levy shall not exceed thirty-five cents on each one hundred dollars of said valuation for the year nineteen hundred and eight, and shall not exceed thirty-five cents after that year, anything in the charter of any municipal corporation to the contrary notwithstanding.

Additional levy.

Sec. 5. If any county court, board of education or common

council of a municipal corporation be of opinion that the maximum rate of levy of taxes hereinbefore named in the first and second provisos of section two as to counties, or in the first proviso of section three as to school districts, or in the first proviso of section four as to municipalities, will not produce sufficient funds for the current fiscal year to cover the expenditures for the year in the county, or school district, or municipality, as the case may be, it may enter an order on its record book of proceedings setting forth the purposes for which additional funds will be needed, the amount thereof for each purpose, and the total thereof, the aggregate amount of the taxable property on which it is authorized to levy taxes and the rate of levy in cents on each one hundred dollars of valuation of such property necessary to produce the additional amount estimated to be needed; and in the same order submit to the voters of the county, the school district, or the municipality, as the case may be, at an election therefor, the question of such additional levy. If a majority of the votes cast on the question at such election be in favor of such additional levy, the court, board or council, as the case may be, shall have authority to make such additional levy, but the same shall not exceed twenty cents on each one hundred dollars of valuation of the taxable property in the county, school district, or municipality, according to the last assessment thereof: *provided, first*, that if any county or municipal corporation has, at the time this act goes into effect, an outstanding bonded indebtedness, and the county court be of opinion that the maximum rate of levy prescribed in section two, or the council be of opinion that the maximum rate prescribed in section four, will not produce sufficient funds to pay the interest on such bonded indebtedness and to provide a sinking fund for the discharge of the principal in the number of years required by the issue of the bonds, it may enter an order on its record book of proceedings setting forth the maximum rate of special bond levy necessary in each year to pay the interest and provide such sinking fund; and in the same order submit to the voters of the county, or of the municipality, as the case may be, at a special election thereof or at any general election, the question of such levy. If a majority of the votes cast at such election be in favor of such levy, the county court or council, as the case may be, shall have authority to lay such maximum levy, and may continue to lay the same or such portion thereof as is necessary, from year to year, without an additional vote, until such bonded indebtedness is paid off and discharged. The funds arising

from such levy shall be used for the purpose herein designated and no other. Such election shall be held pursuant to the provision of section seven: *provided, second*, that if any county or municipal corporation, or magisterial or school or independent school district creates in the future a bonded indebtedness according to law, and the county court, municipal council, or board of education be of opinion that the maximum rate of levy provided in section two, three or four, as the case may be, will not produce sufficient funds to pay the interest on such bonded indebtedness and provide a sinking fund for the discharge of the principal in the number of years authorized by the issue of the bonds, it may enter an order on its record book of proceedings setting forth the maximum rate of levy necessary in each year to pay the interest and to provide such sinking fund; and in the same order submit to the voters of the county, district or municipality, as the case may be, at the election held for the purpose of authorizing the bond issue, the question of such levy. At such election there shall be printed on the ticket a brief statement of the levy herein provided for, such as, "To authorize a maximum special bond levy of _____ cents according to the order of _____ entered on the _____ day of _____, to pay the interest and provide a sinking fund for the discharge of the bonds now being voted for." And directly underneath in two separate lines shall be printed the words "For the levy" and "Against the levy". In all respects the provisions of the laws concerning general elections, and elections under the provisions of this act, shall apply to such election as far as they are practicable. If a majority of the votes cast at such election be in favor of such levy, the court, board, or council, as the case may be, shall have authority to lay such maximum levy, and may continue to lay the same, or such portion thereof as is necessary, from year to year, without an additional vote, until such bonded indebtedness is paid off and discharged; but the funds arising from such levy shall be used for the purpose herein designated and no other.

Special district levy.

Sec. 6. If the county court of any county be of opinion that the taxpayers of any magisterial district in the county desire to expend more money therein for the making and repair of roads and bridges than the amount that will be produced by the maximum levy named

in section two, and the court approve thereof, it may enter an order submitting the question of a special levy to the voters of the district at an election held for the purpose. But such special levy shall not exceed twenty cents on each one hundred dollars of valuation of the property of the district, according to the last assessment thereof; nor shall the aggregate of the regular levy mentioned in section two, and the additional levy mentioned in section five and the special levy mentioned in this section, exceed fifty-five cents on the one hundred dollars of such valuation in any year.

How elections herein authorized held.

Sec. 7. The election authorized in sections five and six may be held at any general election, or at any special election held for any other purpose, as well as held separately. Notice thereof, however, shall be given by the publication of the order of the court, board, or council calling the same, in two newspapers of general circulation in the territory in which the election is held, and of opposite politics, at least once in each week for two successive weeks before the election, and printed copies of said order shall be posted at each place of voting at least ten days before the election. If there be only one such newspaper published in the county, the publication shall be made therein. All the provisions of the laws concerning general elections shall apply to such election as far as they are practicable, except as follows: A separate ticket shall be used at such election held in connection with any other election. On such ticket shall be printed a brief statement of the question submitted, such as "Special election to authorize — levy of — cents, according to the order of the ———, entered on the — day of ———;" and directly underneath, in two separate lines, shall be printed the words "For the levy," and "Against the levy." Those favoring the levy shall erase the words "Against the levy" and those opposed thereto shall erase the words "For the levy". If a majority of those voting on the question be in favor of the levy the said tribunal submitting the question shall be authorized to lay the same; but if a majority of the votes cast on the question be not in favor of such levy, it shall not be laid. If the question be submitted by the county court, the clerk thereof shall prepare, procure and furnish to the election commissioners at each place of voting the tickets, poll books, tally sheets and other things needed; if the question be submitted by a board of education, the

secretary thereof shall perform such duty; and if the question be submitted by a council of a municipal corporation, such duty shall be performed by the clerk, recorder or other recording officer of the council; *provided*, that the question of levy, except as provided in the first and second provisos of section five, may be submitted for any two successive years that may be named in the order submitting the question to the voters, the rate of levy for each year being stated in such order; and if the levy be authorized, as aforesaid, the proper tribunal may lay such levy for each of said two years, or so much thereof as may be found necessary.

Special debt levy—Provisions as to certain funds.

Sec. 8 If any county, or any magisterial district or any school district or any independent school district, or any municipal corporation, have outstanding unpaid orders on the treasury thereof, or owe other floating indebtedness, which orders were issued or which indebtedness was incurred previous to the first day of January in the year nineteen hundred and eight, the amount whereof is so considerable that it is impracticable to discharge the same out of the proceeds of the regular levy, and the county court, or board of education, or common council, as the case may be, deem it inadvisable to submit to the voters of the county, or district, or municipality the question of an additional levy as provided in section five, such court, board or council may lay a levy in addition to said regular levy, to be called "special debt levy," not exceeding ten cents on each one hundred dollars of the valuation of the taxable property of the county, district, or municipality, as the case may be, according to the last assessment of such property, and continue such levy for as many years as may be necessary to pay off such debt, but not longer. The net amount produced by any such levy, or by any additional levy authorized by section five, or by any special levy authorized by section six, shall not be used for any other purpose, as to such special debt levy than for the payment of such debt, or as to such additional or special levy than for the purpose or purposes named in the order submitting the question to the voters. The treasurer of each of such funds shall keep an accurate account of the same separately from other funds. If after paying off such debts or effecting the object of said additional levy or of said special levy, any balance remains of any of said funds the same shall, first, revert to the sinking fund

of the county, or of the magisterial district, or independent school district, or of the municipal corporation, as the case may be; or, secondly, if there be no such sinking fund, it shall in case the fund was raised by taxes levied throughout the county, revert to the fund for general purposes of the county; if the fund was raised by taxes levied on the property of a school district or independent school district, said balance shall revert to the teachers' fund of the district; if the fund was raised by taxes levied on the property of a municipal corporation, said balance shall revert to the fund for general purposes of the municipality; and in case of a magisterial district said balance shall revert to the road fund thereof.

Certain acts prohibited—Penalties.

Sec. 9 It shall be unlawful for any county court, board of education, or council of a municipal corporation, or other body charged with the administration of the fiscal affairs of any county, school district or independent district, or municipality, to expend any money or to incur any obligation or indebtedness which such tribunal is not expressly authorized by law to expend or to incur. Nor shall any such tribunal make any contract, express or implied, the performance of which, in whole or in part, would involve the expenditure of money in excess of funds legally at the disposal of such tribunal, issue or authorized to be issued any certificate, order or other evidence of indebtedness which cannot be paid out of the levy for the current year or out of the fund against which it is issued. Nor shall any such tribunal attempt to lay any levy the rate whereof shall exceed the rate specified by this act.

Any member of any such tribunal, or any officer or person, who in violation of any of the provisions of this act shall expend any money, or incur any debt or obligation, or make or participate in the making of any such contract, or be party thereto in any official capacity, or issue or cause to be issued any such certificate, order or other evidence of indebtedness, or lay or cause to be laid any levy or levies, shall be personally liable therefor, both jointly and severally, and an action may be maintained therefor by the state, or by any county, municipal corporation, district or person prejudiced thereby, in any court of competent jurisdiction; and any such member, officer or person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars, or be confined in jail not more

than one year, or be both fined and imprisoned; and in addition thereto shall forfeit his office. Whenever any court of competent jurisdiction by *mandamus*, injunction or other judicial proceeding, shall determine that any officer or person has wilfully violated any of the provisions of this section, it shall enter an order declaring the office of such officer or person forfeited.

Duty of state tax commissioner and attorney general.

Sec. 10. The state tax commissioner shall prepare forms and instructions for making up the statement named in sections two, three and four of the condition of the fiscal affairs, which forms and instructions shall be followed so far as they are consistent with law. The attorney general shall prepare forms and instructions for the holding of any election provided by this act, which forms and instructions shall be followed so far as they are consistent with law.

Sec. 11. All acts and parts of acts in conflict with this act, are hereby repealed in so far as they are in conflict.

(Senate Bill No. 3.)

CHAPTER 10.

AN ACT to amend and reenact section seven of chapter thirty of the code of nineteen hundred and six (serial section S28), relating to sheriff's commissions in the collection of taxes.

[Passed February 29, 1908. In effect January 1, 1909. Approved March 6, 1908.]

Sec. 7. Notice of time and place for payment of taxes; discount to be given to persons paying taxes at a certain time; discount to be deducted from sheriff's commissions as provided for in section

Sec. thirty-one of this chapter of the code; notice to be advertised in all newspapers in the county for three weeks; penalty for failure to give notice; to be in effect January 1st, 1909.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter thirty of the code of nineteen hundred and six (serial section S28) be and the same is hereby amended and reenacted so as to read as follows:

Sec. 7. It shall be the duty of the sheriff or collector to give notice by posting at the places of voting in each district, and at not less than

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

This act shall not take effect until January first, nineteen hundred and nine.

(House Bill No. 3.)

CHAPTER 11.

AN ACT to provide for the investment of sinking funds established for the purpose of paying off the bonded indebtedness of any county, district, school district, independent school district, city, town or village in this state.

[Passed February 13, 1908. In effect ninety days from passage. Approved February 21, 1908.]

Sec.

1. Duty of county, district, school district independent school district, city, town or village as to establishment of a sinking fund; duty of court in case of bond issue by a county or district of a county; sinking fund to be in-

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- vested; to whom order shall be directed to as to such fund; if officer fails or refuses to make such investment, what then.
2. How and what kind of securities can be invested in; what premium to be paid; investments of

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a county or board of education to be approved in writing by the prosecuting attorney; investments of cities, towns and villages to be approved by the attorney of such city; when investments do not have to be approved by the attorneys; if no available fund as designated in this section, how funds can be invested in that case; banks to pay interest quarterly; rate to be paid; banks to execute a good and sufficient bond; bond to be approved by the county court, board of education or common council; amount of bond to be given; to whom payable and for what benefit; bond to be approved by the prosecuting attorney for the county or board of education; for a city,

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- town or village by the city attorney.
3. County court, board of education, city, town or village to publish an order directing the investment of such sinking fund; order to be published in two newspapers for two successive weeks.
 4. Duty of sheriff, treasurer or other custodian as to the collection of interest and principal; fund may be re-invested by order of the county court, board of education or common council.
 5. Settlements with the sheriff, treasurer or other custodian; what they shall be charged with; such officer to be liable on his official bond for all securities and money received by him.

Be it enacted by the Legislature of West Virginia:

Sec. 1. When any bonds of any county, district, school district, independent school district, city, town or village of this state, has been or shall hereafter be issued as provided by law and a sinking fund established to pay the same and any money shall have accumulated in such fund, it shall be the duty of the county court in case of bonds issued by a county or a district of a county, and the duty of the board of education in the case of a school district or independent school district, and the duty of the common council in the case of a city, town or village to direct by order entered of record, the investment of such sinking fund. The order shall be directed to the sheriff, treasurer or other legal custodian of such sinking fund, and shall specify minutely the securities in which said fund shall be invested, the amount of the investment to be made, and the date at which it shall be made. If the sheriff, treasurer or other custodian of such fund shall fail or refuse to make such investment when so directed, he shall forfeit for the benefit of such fund at the rate of ten per centum per annum on the amount directed to be invested for such time as he shall fail to make such investment.

Sec. 2. No such sinking fund shall be invested in securities of any kind other than the bonds of other valid interest-bearing evidence of indebtedness of the United States or of this state, or a county, district, school district, independent school district, city, town or village of this state, and only in such of said securities as will mature prior to the date of the maturity of the bonds for the payment of which the sinking fund to be invested was established; and in investing these funds no greater premium shall be paid for any of said.

bonds than an amount which at maturity of said bonds or securities will have netted not less than the amount paid for said bonds or securities plus three per cent per annum on said amount. Nor shall such investment be made by the county court or the board of education until such investment is approved in writing by the prosecuting attorney of the county; nor shall the common council of any city, town or village make any such investment until such investment is approved in writing by the attorney of such city, town or village; except, however, that when the investment ordered to be made by a county court is in the bonds or other evidence of indebtedness of the county or district of the county of the court ordering the investment; or in the bonds or other evidence of indebtedness of the school district or independent school district of the board of education ordering the investment; or in the bonds or other evidence of indebtedness of the city, town or village ordering the investment, then and in that event it shall not be necessary to have the approval of the prosecuting attorney or the attorney of the city, town or village as hereinbefore provided. If none of the securities designated in this section as securities in which sinking funds may be invested shall be reasonably available for the investment of any sinking fund herein provided to be invested, it shall then be the duty of the county court, the board of education or the common council as the case may be, to enter an order of record directing the sheriff, treasurer, or other custodian of such fund to place the same in some bank or banks of the county designated as county or city depositories. But before any such funds shall be placed in said bank or banks said bank or banks shall agree to pay interest quarterly on such fund, at a rate not less than the rate which the state of West Virginia receives from state depositories on money deposited therein by the state. Nor shall such sinking fund be placed in any such bank until the said bank shall execute a good and sufficient bond, to be approved by the county court, the board of education or the common council as the case may be, in a sum at least double the amount of the sinking fund to be deposited therein, which bond shall be made payable to the state of West Virginia for the benefit of the county, district, independent school district, city, town or village as the case may be, and conditioned for the faithful accounting and paying over all of the fund placed therein and the interest accruing thereon whenever required by the county court, the board of education or the common council as the case may be. The bond herein required to be executed shall be submitted to

and approved as to its form and legality by the prosecuting attorney in case where a county court or board of education is required to make the order herein required, for depositing such money, and by the attorney of the city, town or village in cases where a common council is required to make the order directing the fund to be placed in bank, as aforesaid.

Sec. 3. It shall be the duty of the county court, the board of education or the common council, as the case may be, when the investment of any sinking fund is to be made under the provisions of this act, to publish the order directing the investment of such sinking fund in two newspapers of general circulation in the county, if there be such, once in each week for two successive weeks next prior to the time the investment is to be made.

Sec. 4. When the investment of any sinking fund shall have been made under the provisions of this act, it shall be the duty of the sheriff, treasurer or other custodian of such sinking fund, to hold and preserve the securities in which such sinking fund is invested, and collect the interest on and the principal of such securities when due; and the interest and principal so collected shall continue to be a part and parcel of the original sinking fund, to be applied and used, or re-invested if need be, by order of the county court, the board of education, or the common council, as the case may be, in all respects the same as the original sinking fund.

Sec. 5. In all settlements with the sheriff, treasurer or other custodian, the county court, the board of education, or the common council, as the case may be, shall credit such sheriff, treasurer or custodian with the amount of money actually invested in the securities held in such sinking fund, and with the amount of money actually deposited in a bank under the requirements of section two of this act, and shall charge him with said securities and money and with such interest as may have been collected thereon; and he shall be liable on his official bond for all securities and money received by him under the provisions of this act.

(House Bill No. 1.)

CHAPTER 12.

AN ACT to provide that all licenses expiring on April thirtieth, nineteen hundred and eight, may be re-granted to expire on June thirtieth, nineteen hundred and nine, and that all corporation license taxes due May first, nineteen hundred and eight, shall be collected for a period of fourteen months.

[Passed February 1, 1908. In effect from passage. Approved February 14, 1908.]

<p>Sec. 1. When license tax to begin and expire: not to be construed to require license court to renew, grant or extend any license in</p>	<p>Sec. force on the 30th day of April, 1908. 2. Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That all licenses issued by county clerks, county courts and the auditor, under the provisions of chapter thirty-two of the code and in effect at the time application is made for the re-granting thereof and which expire on the thirtieth day of April, nineteen hundred and eight, shall be granted, if granted at all, from May first, nineteen hundred and eight, to June thirtieth, nineteen hundred and nine, a period of fourteen months, and the license tax for such period of time shall be one and one-sixth times the annual tax required to be paid on May first, nineteen hundred and eight. All franchise license taxes due from corporations on May first, nineteen hundred and eight, shall likewise be collected for a period of fourteen months, that is from May first, nineteen hundred and eight to June thirtieth, nineteen hundred and nine, and the license tax due the state for such period of time shall be one and one-sixth times the annual tax in effect on may first, nineteen hundred and eight. But nothing herein contained shall be construed as requiring any license court to renew, grant or extend any license in force on the thirtieth day of April, nineteen hundred and eight.

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

(House Bill No. 12.)

CHAPTER 13.

AN ACT to amend and reenact section twenty-four, chapter thirty-six, acts of nineteen hundred and five, in relation to the abatement as common and public nuisances of all places where intoxicating liquors are sold contrary to law, and prescribing penalties therefor.

[Passed February 25, 1908. In effect ninety days from passage. Approved February 29, 1908.]

Sec.

24. Buildings, house boats, clubs, etc., where liquors are sold, deemed public nuisances, and abated, when: citizens or officers may file

Sec.

bill of complaint in the name of the state: duty of court as to such complaint; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, chapter thirty six, acts of nineteen hundred and five, be amended and reenacted as follows:

Sec. 24. All houses, boat houses, buildings, club rooms and places of every description, including drug stores, where intoxicating liquors are stored, sold or vended, given away, or furnished contrary to law (including those in which clubs, orders or associations sell, barter, give away, distribute or dispense intoxicating liquors to their members, by any means or device whatever, without payment of the state tax required of such clubs, orders or associations), shall be held, taken, and deemed to be common and public nuisances, and courts of equity shall have jurisdiction by injunction to restrain and abate any such nuisance, upon bill of complaint filed by any citizen, or by the prosecuting attorney of any county, or by any state officer, in the name of the state of West Virginia. It shall not be necessary for the court to find that the premises involved were being unlawfully used as aforesaid at the time of the hearing, but on finding that the material allegations of the bill are true, the court shall order that no spirituous liquors shall be sold, bartered, given away, distributed, dispensed or stored in such house, building, boat house, club room or other place, nor in any part thereof, for a period of not to exceed one year in the discretion of the court from and after such finding, in case license had theretofore been issued for such sale in such premises in accordance with law; otherwise the order for abatement shall be perpetual. In addition to the above the license, if any, theretofore

granted for the sale of intoxicating liquors on the premises shall be revoked by the court or judge rendering the decree.

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

(Senate Bill No. 21.)

CHAPTER 14.

AN ACT to make more effective the prohibition of the sale of intoxicating liquors on the first day of the week, commonly called Sunday.

[Passed February 26, 1908. In effect ninety days from passage. Approved February 29, 1908.]

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| <p>Sec.</p> <p>1. Rooms where intoxicating liquors are sold to be kept closed on Sunday during what hours; person not permitted in such room; opening of every sort to be securely closed; bar, etc., to be in plain view from street.</p> <p>2. Duty of sheriffs, etc., if places are</p> | <p>Sec.</p> <p>found to be conducted in violation of law; penalty if sheriff, etc., refuse or neglect to perform certain duties.</p> <p>3. Penalty if any person, agent or employee shall violate provisions of section one of act.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. All rooms, except drug stores, where any of the liquors mentioned in section one, paragraph c, chapter thirty-six, acts of nineteen hundred and five, are sold or kept for sale, either at wholesale or retail, shall be kept closed and securely locked on the first day of the week, commonly called Sunday, from and after the hour of twelve o'clock Saturday night and until five o'clock on the morning of the succeeding Monday, and no person shall be permitted in such room for any purpose during the days and hours when it is by law or ordinance required to be closed. All openings of every sort from such room to any other room, hall, vestibule, entrance or stairway, situated in the building, or from such room to any building or room adjoining the room in which said business is carried on, or from such room to any basement or cellar, chamber or attic, shall be kept securely closed and locked on said first day of the week. The bar and all parts of the room where such liquors are on week days sold or offered or exposed for sale shall be in plain view from the street during the said day and night, unobstructed by screens, blinds, painted or partially opaque windows, or any other device, and a light (if gas or electricity is used for lighting purposes) shall be kept burning in said room during the night of said day.

Sec. 2. It shall be the duty of sheriffs, deputy sheriffs, marshals, constables and policemen to immediately close and securely lock all places that may be found to be conducted in violation of any of the provisions of the preceding section; they shall at once arrest the person or persons in charge of same; they shall take the names of all persons found therein and immediately report said names and such violations to the prosecuting attorney of the county, whose duty it shall be to promptly and vigorously prosecute for the same.

Any sheriff, deputy sheriff, marshal, constable or policeman who shall wilfully or corruptly refuse or neglect to perform any of the duties required of him by this section shall on conviction be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, and be imprisoned in the county jail not less than three months nor more than six months; and in addition such convicted officer shall forfeit his office and be ineligible to hold or perform the duties of the same or any similar office for the period of four years from and after such conviction.

Sec. 3. Any person, his agent or employee, who shall violate any of the provisions of the first section of this act shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars, and be imprisoned in the county jail not less than six months nor more than twelve months; and such violation by an agent or employee shall be deemed an offence as well by the principal or employer, and they may be indictable for the same either jointly or separately. The court before which such conviction is had shall as a part of its judgment revoke the license granted for the sale of spirituous liquors on said premises, and shall order that said room and premises shall not be used for the sale, storage or manufacture of such liquors for one year from and after such conviction.

(House Bill No. 36.)

CHAPTER 15.

AN ACT to prescribe the duties and fix the compensation of sheriffs, prosecuting attorneys, clerks of the county court, and clerks of the circuit court of the several counties of this state, and to require books to be kept, statements to be made to the county court of the several counties and the state tax commissioner, the payment of part of the fees of their respective offices to the sheriff of the several counties, and prescribing the official bond to be given, prescribing the punishment of such officers for failure to perform the duties required of him, and to provide for suits on said official bonds.

[Passed March 3, 1908. In effect January 1, 1909. Approved March 4, 1908.]

Sec.

1. All fees, costs, etc., except which are now received as compensation of certain officers, shall be received accounted for and paid over by them.
2. Duty of sheriff, clerk of county court, clerk of circuit court prosecuting attorney as to the collection of fees, etc.
3. Sheriffs, prosecuting attorneys, clerk of county court and clerk of circuit court, to keep set of books: what to be entered therein.
4. State tax commissioner to prescribe the forms of books to be used: county court to furnish books; books of account to be records; to be transmitted at expiration of officers terms: shall be subject to examination by county court, etc.; officers to make and file report, when; what report to contain: officers to pay over to sheriff as treasurer all fees, etc., except, etc. full and complete report to be filed: when and where; what report to contain: duty of county court after filing of report; when officer liable for uncollected fees, etc.; officer to pay to sheriff as treasurer the part of the fees for which he became liable: duty of county court upon completion of examination: duty of state tax commissioner if found that the county court

Sec.

- erred in examination of accounts: court to notify officer whose statement is to be reexamined.
5. No county officer to make any reduction, abatement or remission of any fees, etc.; penalties.
6. Officers to turn over to successor all books, fees, etc.; incoming officer to account for and pay over all such fees, etc.; not to effect fees, etc., for officer whose term expires December thirty-first, one thousand nine hundred and eight.
7. Penalties for violation of this chapter by officers; appeals.
8. Officers to execute bond: other conditions required: when bondsman liable; county court may require of prosecuting attorney a bond upon like conditions of the bond of sheriff, etc.; duty of prosecuting attorney as to instructing proceedings upon the bonds of sheriffs, etc.; if prosecuting attorney fall or refuse to bring suit upon bonds, what then; if prosecuting attorney become liable, who to prosecute, who to pay counsel fees.
9. Salary of sheriff, prosecuting attorney, clerk of county court and clerk of circuit court: excess of certain sums to be paid to sheriff, as treasurer: inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. From and after January first, nineteen hundred and nine, all the fees, costs, percentages, penalties, allowances, commissions, and all other perquisites and amounts of whatever kind, except jail

fees and allowances to the sheriff as jailer, which by law may now be received or collected as compensation for services by any sheriff or prosecuting attorney, or by any clerk of the county court or any clerk of the circuit court or criminal or intermediate court of any county in this state, shall be received, collected, accounted for and paid over by such officer as hereinafter provided.

Sec. 2. The sheriff and the clerk of the circuit court, and the prosecuting attorney of each county shall charge and collect all fees, costs, percentages, penalties, allowances, commissions, compensations and amounts, which are now, or may hereafter be allowed by law, and in all cases shall be charged with and be held liable for all amounts which it was his duty to collect and shall account for and pay over the same as hereinafter provided. Each clerk of the county court shall collect in advance, all fees, costs, percentages, penalties, allowances, commissions, compensations and amounts that are now or may hereafter be allowed by law, and he shall account for and pay over the same as hereinafter provided.

Sec. 3. Every sheriff, prosecuting attorney, clerk of the county court and clerk of the circuit court shall keep a set of books to be furnished him as hereinafter provided, in which shall be entered at the time the service is rendered, all fees, costs, percentages, penalties, allowances, commissions, compensations and amounts, which are now, or may hereafter be allowed by law, and which are directed to be charged and collected in the preceding section. The entries in said books shall show from whom and from what source the said fees, costs, percentages, penalties, allowances, commissions, compensations, and amounts are due. Said books shall also show all fees, costs, percentages, penalties, allowances, commissions, compensations and amounts collected, the times of collection of the same, and from whom collected.

Sec. 4. The state tax commissioner shall prescribe the form of the books to be used by the sheriff, clerks and prosecuting attorney aforesaid and the county court of each county shall furnish a set of books for each officer who is required to keep the same, as hereinbefore provided, and said court shall deliver to each officer a set of said books. And the county court shall, from time to time, furnish said books, or any number thereof upon a requisition to the county court for the same. And said books of account shall be a part of the record of the respective offices, and shall remain therein as public property, and shall be transmitted by such officer, at the expiration of his term, to

his successor in office. Said books, at all times shall be subject to the examination of the county court or any commissioner thereof, or the state tax commissioner, or of any person or persons appointed for the purpose of examining the same by the county court or the state tax commissioner. Each of the officers named herein shall, at the end of the month of March, June, September and December, make and file a report with the county court of his respective county, and also the state tax commissioner, showing all fees, costs, percentages, penalties, allowances, commissions, perquisites and amounts charged by him, as well as all such fees, costs, penalties, percentages, allowances, commissions, perquisites and amounts collected by him during the quarter just preceding such report, and at the same time such officer shall pay over to the sheriff as treasurer of his respective county all fees, costs, penalties, percentages, allowances, commissions, perquisites and amounts of whatever kind, collected by him during said quarter, so far as the same may be in excess of the amount allowed to be retained by him for salary, as hereinafter provided. At the end of December of each year, each of the officers named herein, shall make and file with the county court of his respective county and the state tax commissioner, a full and complete report showing the amount of fees, costs, penalties, percentages, allowances, commissions, perquisites and amounts not collected, and what steps have been taken by him for the collection of the same. At the first meeting of the county court after the filing of such report, the court shall inspect said report and if, upon such inspection, the court finds that there are uncollected fees, costs, penalties, percentages, allowances, commissions, perquisites and amounts in any of said officer's statement that were collectible and should have been collected, the officer making such report shall thereupon become liable to the county for that part of the fee or fees that it would have received in case said fee or fees had been collected, and such officer or officers shall thereupon pay over to the sheriff as treasurer of the county the part of said fee or fees for which he became liable as aforesaid, together with other fees directed to be paid over to the sheriff, as hereinbefore provided. Upon the completion of said examination of said reports, the county court of each county shall cause a statement to be made out, fully showing their action on said reports, and what fees, if any, they have found that should have been collected by the respective officers, and shall immediately transmit the same to the state tax commissioner, and if upon examination of said statement of said county court by

the state tax commissioner, he shall find that the said county court erred in any of the particulars required by this section for it to do in relation to the examination of said accounts, the state tax commissioner shall thereupon transmit a communication to said court calling its attention to its error, and thereupon the county court shall again examine said accounts, at which examination the state tax commissioner, either in person or by agent, may be present. and the said statements shall be reheard and determined according to the very right. But no such hearing shall be had in relation to the statement of any officer until the court has notified the officer whose statement is to be reexamined, at least five days prior thereto.

Sec. 5. None of the county officers named in this act shall make any reduction, abatement or remission of any fees, costs, percentages, penalties, allowances, commissions, perquisites or amounts of any kind, that it may be his duty to charge and collect as required by law. If any officer fails to charge any such fees, costs, percentages, penalties, allowances, commissions, perquisites, or amounts upon his books, or shall fail to make out and file any report or reports required of him in the next preceding section, he shall be guilty of a misdemeanor, and upon conviction thereof he shall be fined not less than twenty dollars nor more than fifty dollars, and at the discretion of the court may be imprisoned in the county jail not more than six months.

Sec. 6. At the expiration of the term of office of the officers herein named for which they are elected or appointed, they shall turn over to their successors in office, all the books, and fees, costs, percentages, penalties, allowances, commissions, perquisites and amounts not collected and accounted for by them. And the incoming officers shall account for and pay over all such fees, costs, percentages, penalties, allowances, commissions, perquisites and amounts in the same manner as they are required to account for the fees, costs, percentages, penalties, allowances, commissions, perquisites and amounts of their own term, but nothing herein shall be construed to affect the fees, costs, percentages, penalties, allowances, commissions, perquisites and amounts of any officer whose term of office expires on December thirty-first, nineteen hundred and eight.

Sec. 7. Any of the officers named in this chapter, who shall fail to keep books of accounts, to file a report, and to pay money to the sheriff as treasurer of his respective county, as herein provided. or who violates any of the provisions of this chapter, the punishment for which is not hereinbefore provided for, shall be deemed guilty

of a misdemeanor, and upon conviction thereof, be fined not less than fifty dollars, nor more than two hundred dollars, and at the discretion of the court may be imprisoned in the county jail not to exceed six months in addition to the judgment provided for in this section and in section five, upon conviction the court may further adjudge the officer guilty of misconduct in office, and enter such judgment on the record, which judgment shall work an immediate forfeiture of his office, but from said judgment an appeal will be to the supreme court of appeals of this state.

Sec. 8. Each sheriff, clerk of the county court and clerk of the circuit court in each county, shall execute bond as now required by law. In addition to the conditions required in the said bond by law, the court shall require, as a further condition, the prompt payment of all fines that may be assessed under any of the provisions of this chapter. The bondsmen upon any bond given for any officer shall be liable from time to time for the default of any officer in the payment of any fine or fines which may be assessed against him, and any default that he may make in the payment of money as required under the provisions of this chapter. If the county court of any county shall deem it necessary, the court may require of the prosecuting attorney a bond upon like conditions of the bond of sheriff, clerks of the circuit court and clerks of the county court, as above provided, in a penalty of at least double the amounts of money that are liable to come into his hands as such prosecuting attorney. And the prosecuting attorney of each county, shall from time to time institute proceedings upon the bonds of sheriffs, clerks of the circuit court and clerks of the county court in their respective counties, for the collection of any fines or moneys for which they have become liable under the provisions of this chapter. The prosecution of such suits shall become a part of the duties of the prosecuting attorney of the respective counties, and in case he shall fail or refuse to bring and prosecute any suit or suits hereunder, the county court is authorized to institute any suit in the name of the state of West Virginia, for the recovery of any sum or sums for which the bondsmen may have become liable and is authorized to employ counsel for that purpose. In case the prosecuting attorney shall fail or refuse to bring any suit as required by this section, upon any such bonds, and the county court shall employ counsel for the purpose of bringing and prosecuting such suits, the county court shall pay the attorney thus employed by the county court, but the same shall be deducted from

the salary of the prosecuting attorney of such county. In case the prosecuting attorney shall fail to bring and prosecute such suit or suits, and the county court shall fail to bring and prosecute such suit or suits upon the bonds of the sheriff, clerk of the county court and clerk of the circuit court in their respective counties, as aforesaid, the state tax commissioner is empowered to employ counsel and bring such suit or suits and prosecute the same, and the county court of the respective counties wherein the prosecution is conducted shall pay all counsel fees thus incurred. In case bond is required of the prosecuting attorney, as herein provided may be, or the prosecuting attorney may become liable without bond for any fees, costs, percentages, penalties, allowances, commissions, compensation and amounts, and shall fail to pay over the same, the county court shall employ counsel and prosecute any suit or suits against the prosecuting attorney of any county in the name of the state of West Virginia, and the county court shall pay for counsel thus employed. Such payment shall be made out of the general fund of the county wherein the suit is instituted. In case the county court shall refuse to act or employ any counsel to prosecute any suit or suits against the prosecuting attorney, as herein provided, then the state tax commissioner is authorized to prosecute such suit and employ counsel therefor, and the county court of the county wherein the prosecution is had, shall pay such counsel fees.

Sec. 9. Each sheriff, clerk of the county court, clerk of the circuit court, or clerk of the circuit and criminal or intermediate court and prosecuting attorney in the counties of the state, shall receive as compensation for his services as such sheriff, clerks and prosecuting attorney, the following sums, to wit:

(a) The salaries authorized by law to be fixed by the county court of the respective counties and paid out of the county treasury;

(b) Such allowance or allowances as may be made by the county court of the different counties to such officers by authority of law now in effect.

(c) Eighty-five per centum of all other fees, costs, percentages, perquisites, commissions and emoluments: *provided, however,* that such sheriff, clerks and prosecuting attorney shall receive all fees, costs, percentages, perquisites, emoluments and commissions collected or received by him until the gross income of his office from all sources including salaries and allowances as aforesaid shall equal the following sums, that is to say:

For the office of sheriff, three thousand dollars.

For the office of clerk of the county court, two thousand dollars.

For the office of clerk of the circuit court, two thousand dollars.

For the office of clerk of the circuit court and criminal court or intermediate court, three thousand dollars.

For the office of clerk of the county and circuit court when held by the same person, two thousand dollars.

For the office of prosecuting attorney, fifteen hundred dollars.

When said salaries, allowances, fees, costs, percentages, perquisites, emoluments and commissions exceed the sum hereinbefore mentioned to be retained by such officers, then such officers shall pay to the sheriff as treasurer of his county, fifteen per centum of all fees, costs, percentages, perquisites, penalties, commissions and emoluments collected by him, excluding therefrom the salaries of such officers paid out of the county treasury, and allowances made by authority of law as aforesaid: *provided, however,* should the gross income from all sources, aforesaid, for any of the said offices, exceed the amounts hereinbefore specified, but insufficient to net said amounts so specified, after deducting the said fifteen per centum aforesaid, then in such event said officers shall retain respectively, said amounts specified as aforesaid, and the residue of said gross income pay into the county treasury.

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

(Senate Sub. for House Bill No. 11.)

CHAPTER 16.

AN ACT fixing the number of terms and time for holding the circuit courts in each county of the several judicial circuits of the state.

[Passed March 2, 1908. In effect ninety days from passage. Approved March 4, 1908.]

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| <p>Sec.
1. Certain sections of the acts of 1905 and 1907 relating to the time of holding circuit courts amended.</p> <p>2. Beginning of terms in the first circuit.</p> <p>3. Beginning of terms in the second circuit.</p> <p>4. Beginning of terms in the third circuit.</p> <p>5. Beginning of terms in the fourth circuit.</p> | <p>Sec.
6. Beginning of terms in the fifth circuit.</p> <p>7. Beginning of terms in the sixth circuit.</p> <p>8. Beginning of terms in the seventh circuit.</p> <p>9. Beginning of terms in the eighth circuit.</p> <p>10. Beginning of terms in the ninth circuit.</p> <p>11. Beginning of terms in the tenth circuit.</p> |
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SEC.		SEC.	
12.	Beginning of terms in the eleventh circuit.	17.	Beginning of terms in the sixteenth circuit.
13.	Beginning of terms in the twelfth circuit.	18.	Beginning of terms in the seventeenth circuit.
14.	Beginning of terms in the thirteenth circuit.	19.	Beginning of terms in the eighteenth circuit.
15.	Beginning of terms in the fourteenth circuit.	20.	Inconsistent acts repealed.
16.	Beginning of terms in the fifteenth circuit.		

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be held in each year at least three terms of the circuit courts of the several counties of the first, second, third, fourth, fifth, sixth, eighth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, seventeenth and eighteenth judicial circuits, excepting the counties of Cabell and Lincoln of the sixth circuit and the counties of Mineral and Tucker of the sixteenth circuit, and the county of Hampshire of the seventeenth circuit, and in the seventh, ninth and tenth circuits there shall be at least four terms in each year, and the terms of the several counties aforesaid shall commence and be held as follows:

First circuit.

Sec. 2. For the county of Hancock, on the second Monday in March, third Monday in June, and first Monday in November.

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

For the county of Marshall, on the second Tuesday in February, last Tuesday in May, and the second Tuesday in October.

For the county of Ohio, on the last Monday in March, first Monday in September, and the fourth Monday in November.

Second circuit.

Sec. 3. For the county of Wetzel, on the second Tuesday in January, the first Tuesday in May, and the third Tuesday in September.

For the county of Tyler, on the fourth Tuesday in February, the third Tuesday in June, and the first Tuesday in November.

For the county of Doddridge, on the third Tuesday in March, the second Tuesday in July, and the fourth Tuesday in November.

Third circuit.

Sec. 4. For the county of Ritchie, on the second Tuesday in Feb-

rinary, the second Tuesday in June, and the second Tuesday in October.

For the county of Pleasants, on the second Tuesday in January, the fourth Tuesday in April, and the second Tuesday in September.

For the county of Gilmer, on the first Tuesday in April, the first Tuesday in August, and the fourth Tuesday in November.

Fourth circuit.

Sec. 5. For the county of Wood, on the first Monday in March, second Monday in June, and first Monday in December.

For the county of Wirt, on the second Monday in January, the second Monday in May, and the second Monday in September.

Fifth circuit.

Sec. 6. For the county of Roane, on the third Tuesday in January, the third Tuesday in May, and the third Tuesday in September.

For the county of Jackson, on the first Tuesday in April, the first Tuesday in August, and the first Tuesday in November.

For the county of Calhoun, on the third Tuesday in April, the third Tuesday in August, and the third Tuesday in November.

For the county of Mason, on the first Tuesday in February, the first Tuesday in June, and the first Tuesday in October.

Sixth circuit.

Sec. 7. For the county of Cabell, on the first Monday in January, the first Monday in April, the first Monday in July, and the first Monday in October.

For the county of Lincoln, on the first Monday in March, the first Monday in June, the first Monday in September, and the first Monday in December.

For the county of Putnam, on the third Tuesday in March, the third Tuesday in July, and the third Tuesday in November.

Seventh circuit.

Sec. 8. For the county of Boone, on the second Monday in Janu-

ary, the second Monday in April, the second Monday in July, and the second Monday in October.

For the county of Logan, on the fourth Monday in January, the fourth Monday in April, the fourth Monday in July, and the fourth Monday in October.

For the county of Wayne, on the second Monday in February, the second Monday in May, the second Monday in August, and the second Monday in November.

For the county of Mingo, on the first Monday in March, the first Monday in June, the first Monday in September, and the first Monday in December.

Eighth circuit.

Sec. 9. For the county of Mercer, on the second Tuesday in May, the second Tuesday in August, and the fourth Tuesday in November.

For the county of McDowell, on the second Tuesday in February, the second Tuesday in June, and the second Tuesday in September.

For the county of Monroe, on the second Tuesday in April, the second Tuesday in July, and the second Tuesday in November.

Ninth circuit.

Sec. 10. For the county of Raleigh, on the third Monday in February, the first Monday in May, the fourth Monday in August, and the first Monday in December.

For the county of Wyoming, on the first Monday in March, the fourth Monday in May, the third Monday in September, and the third Monday in November.

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

Tenth circuit.

Sec. 11. For the county of Clay, on the first Monday in January, the first Monday in April, the third Monday in June, and the second Monday in October.

For the county of Kanawha, on the second Monday in February,

the second Monday in May, the second Monday in September, and the fourth Monday in November.

Eleventh circuit.

Sec. 12. For the county of Pocahontas, on the third Tuesday in January, the first Tuesday in June, and the first Tuesday in October.

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

For the county of Fayette, on the second Tuesday in February, the second Tuesday in May, and the third Tuesday in September.

Twelfth circuit.

Sec. 13. For the county of Upshur, on the second Monday in January, the first Monday in May, and the third Monday in September.

For the county of Nicholas, on the first Tuesday in April, the second Tuesday in August, and the second Tuesday in October.

For the county of Webster, on the second Tuesday in February, the third Tuesday in June, and the first Tuesday in November.

For the county of Braxton, on the fourth Monday in February, the second Monday in July, and the fourth Monday in November.

Thirteenth circuit.

Sec. 14. For the county of Lewis, on the first Monday in March, the first Monday in July, and the first Monday in November.

For the county of Harrison, on the first Monday in January, the first Monday in May, and the first Monday in September.

Fourteenth circuit.

Sec. 15. For the county of Monongalia, on the first Thursday after the first Monday in February, the first day of May, and the first Thursday after the first Monday in October.

For the county of Marion, on the second Monday in March, the first day of June, unless said first day of June be Friday, Saturday or Sunday, in which event then on the following Monday, and on the second Monday in November.

Fifteenth circuit.

Sec. 16. For the county of Barbour, on the first Tuesday in Jan-

uary, the second Tuesday in April, and the fourth Tuesday in September.

For the county of Taylor, on the fourth Tuesday in January, the fourth Tuesday in April, and the Third Tuesday in October.

For the county of Randolph, on the third Tuesday in February, the third Tuesday in May, and the second Tuesday in November.

For the county of Preston, on the third Tuesday in March, the second Tuesday in June, and the first Tuesday in December.

Sixteenth circuit.

Sec. 17. For the county of Grant, on the first Tuesday in April, the second Tuesday in July, and the third Tuesday in November.

For the county of Mineral, on the third Tuesday in January, the third Tuesday in April, the fourth Tuesday in July, and the third Tuesday in October.

For the county of Tucker, on the first Tuesday in March, the first Tuesday in June, the third Tuesday in September, and the third Tuesday in December.

Seventeenth circuit.

Sec. 18. For the county of Hampshire, on the first Tuesday in January, the first Tuesday in March, the first Tuesday in July, and the third Tuesday in September.

For the county of Hardy, on the third Tuesday in February, the third Tuesday in June, and the third Tuesday in October.

For the county of Pendleton, on the third Monday in March, the fourth Monday in July and the first Monday in December.

Eighteenth circuit.

Sec. 19. For the county of Morgan, on the first Tuesday in January, the first Tuesday in April, and the first Tuesday in September.

For the county of Berkeley, on the second Tuesday in January, the third Tuesday in April, and the second Tuesday in September.

For the county of Jefferson, on the second Tuesday in February, the third Tuesday in May, and the third Tuesday in October.

Sec. 20. All acts and parts of acts inconsistent with this act are hereby repealed.

(Senate Bill No. 6.)

CHAPTER 17.

AN ACT to amend and reenact section five, of chapter twenty-two of the acts of nineteen hundred and three, as contained in section three thousand six hundred and thirty-nine of the code of West Virginia of nineteen hundred and six, relating to the time of commencing terms of the circuit courts in the various counties of the state.

[Passed January 31, 1908. In effect from passage. Approved February 7, 1908.]

Sec.

5. Beginning of terms of circuit courts in the fourth circuit.

Be it enacted by the Legislature of West Virginia:

That section five of chapter twenty-two of the acts of nineteen hundred and three, as contained in section three thousand six hundred and thirty-nine of the code of West Virginia of nineteen hundred and six, be amended and reenacted so as to read as follows:

'Sec. 5. For the county of Wirt, on the second Monday in January, the second Monday in May and the second Monday in September.

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

(Senate Bill No. 31.)

CHAPTER 18.

AN ACT limiting the time within which certain offences may be punished.

[Passed February 27, 1908. In effect ninety days from passage. Approved February 29, 1908.]

Sec.

1. Time for which prosecution for violation of election laws may be	SEC. begun.
	2. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. No prosecution shall be had for any violation of the laws concerning elections by the people, or of the laws concerning offences relating to elections, or of the laws relating to the nomination of can-

didates for public office, unless indictment be found, or presentment be made, or prosecution be begun for the offence within one year after the same was committed.

Sec. 2. All acts and parts of acts inconsistent with this act, are hereby repealed.

(Senate Bill No. 40.)

CHAPTER 19.

AN ACT to provide for the registration of voters.

[Passed March 3, 1908. In effect ninety days from passage. Approved March 4, 1908.]

SEC.

1. County court to appoint registrars for each precinct in the county; when registrar to be appointed; his duty; registrar to take oath that he will support the constitution of United States and state of West Virginia; oath to be filed with county clerk.
2. County court shall cause to be prepared books and blanks for the registration of voters; duty of clerk of the county court; how books to be arranged and what to contain.
3. Registrar's duty; authorized to administer oath; questions to be answered by persons desiring to register.
4. Person of foreign birth must show naturalization papers or certified copy thereof, except.
5. Registrars to immediately proceed to register the names of the qualified voters as soon as appointed; registration to be completed before the first day of October; registrars to sit for amending and correcting the registration list, when; to give notice, time and place of such sitting; notice to be posted at each voting precinct.
6. Qualified voters may register at any time but not later than ten days before the election at which he desires to vote.
7. Registration books to be filed with clerk of the county court; when

SEC.

- books to be filed; county court to convene; when and for what purpose; if county court shall erase any name, what then; county clerk to furnish copy of registration book to each voting precinct.
8. Any registrar who may wilfully or maliciously register the name of a person not a qualified voter, or refuse to register the name of a qualified voter, shall be deemed guilty of a felony; penalty.
9. No person shall be allowed to vote after the first registration has been completed unless he shall have been registered, except; penalty for commissioner violating any provision of this act.
10. Voter removed from precinct where registered may obtain certificate from county clerk to vote in another precinct; commissioner's duty.
11. Special elections; registrars to give notice as hereinbefore provided; county court's duty as to special election; county court or clerk to fill vacancy in office of registrar.
12. Registrar's compensation; by whom allowed; how cost of registration for special election to be paid.
13. Commissioners shall return registration books together with the ballot boxes, etc. to the clerk of the county court.
14. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be appointed by the county court of each and every county in the state, not later than the first day of September in each and every year when there is a general election to be held, one competent voter to be styled the registrar for each voting precinct

in the several counties of the state. The registrar shall register as hereinafter provided the male citizens who are entitled to vote under the laws of this state. Said registrars shall each, before entering upon the discharge of their duties take an oath to support the constitution of the United States and the constitution of the state of West Virginia, and to perform the duties of his office to the best of his ability. Said oath shall be filed in the office of the clerk of the county court.

Sec. 2. The county court shall caused to be prepared suitable books and blanks for the registration of voters and the facts required by this act, and the clerk of the county court shall distribute said books and blanks to the registrars of the respective voting precincts. The book aforesaid shall be so arranged as to admit of the alphabetical classification of the names of voters and ruled in parallel columns on which shall be entered first, the name of the person registered; second, age; third, the place of his birth; fourth, the time of his residence in the precinct, district, county and state; fifth, if naturalized, the date of the papers and the court by which issued.

Sec. 3. Before any registrar shall register the name of any person as a qualified voter, he must be satisfied of his qualification as herein provided and for this purpose he is hereby given authority to administer oaths and may require the person desiring to register to answer under oath the following questions:

First—Are you a citizen of the United States?

Second—Are you a native or naturalized citizen?

If the person offering to be registered claims to be a naturalized citizen of the United States he shall produce, for the inspection of the officer of registration, a certificate or other evidence of his naturalization, and also state under oath or affirmation that he is the identical person named therein; but the production of the certificate shall not be required if the person offering to be registered states under oath, when and where he was naturalized, that he has had a certificate of naturalization, and that against his will the same is lost, destroyed or beyond his power to produce the same; or if he states under oath that by reason of the naturalization of his parents, or one of them, he has become a citizen of the United States, and where or when his parents were naturalized.

Third—Will you have resided in this state for one year immediately preceding the coming election?

Fourth—Have you been absent from this state within the year immediately preceding the coming election? (If yes, when?)

Fifth—When you left this state did you leave for a temporary purpose with the intention of returning; or for the purpose of remaining away?

Sixth—Did you while absent look upon or regard this state as your home?

Seventh—Did you while absent vote in any other state?

Eighth—Will you have resided in this county for sixty days prior to the coming election?

Ninth—When did you last come into this county?

Tenth—When you came into this county, did you come for a temporary purpose or for the purpose of making it your home?

Eleventh—Did you come into this county for the mere purpose of voting in this county?

Twelfth—Did you come into your precinct merely for the purpose of voting in it?

Thirteenth—Are you an actual resident of that precinct?

Fourteenth—Are you twenty-one years of age, or will be such, at the coming election, to the best of your knowledge and belief?

He shall also put such other questions to the persons offering to be registered as may be necessary to test his qualifications as a legal voter at the coming election, or require such additional evidence as he may deem necessary. Every person shall be registered who will be entitled to vote at the first election occurring after the registration, by reason of his arriving at twenty-one years of age before the time, or by reason of his having resided for a sufficient length of time in the state and county, provided if otherwise qualified.

Sec. 4. The registrar shall not allow the name of any foreign born resident or citizen qualified as aforesaid to be registered unless his naturalization papers or certified copies thereof be produced and exhibited to him, except as otherwise herein provided.

Sec. 5. The registrars shall immediately upon receipt of notice of their appointment, proceed to register the names of the qualified voters within their respective election precincts in accordance with the provisions of this act, and shall have such registration completed on or before the first day of October, in each year in which there is a general election to be held: *provided*, that in any year in which a general election is to be held, after the year nineteen hundred and eight, the said registrar shall transfer from the registration books

for the preceding year in which an election was held, the names of all qualified voters of said precinct, appearing on said books which shall be a sufficient registration of such voter.

They shall also sit for the amending and correcting the registration list beginning October tenth (Sunday excepted), giving one day for that purpose, and they shall give notice of the time and place of sitting for registration and correction at least ten days previous thereto, by posting printed notices at each of said voting precincts; and the county court may, if it deem proper, publish the same in some county paper.

Sec. 6. Qualified voters may be registered at any time after the regular appointed days of registration are past, but not later than ten days before any election at which such person may desire to vote (except as hereinafter provided), by his application to the proper registrar or the county court.

Sec. 7. At least fifteen days preceding the next election after the registration of voters under this act and at least fifteen days preceding any general election thereafter, the registrar shall make and file with the clerk of the county court two copies of the registration books. It shall be the duty of the county court to convene in special session on the last Monday of October preceding any general election to examine such books, and if they are satisfied that persons have been registered who are not entitled to vote, they shall cause their names to be stricken from the list of voters; and if they should find that persons' names have been omitted by the registrars who should be registered, the court shall cause their names to be entered as qualified to vote; but in no case shall the court erase the name of any voter until he shall have due notice of the time and place of taking the evidence to prove his disqualification, which evidence he shall have the right to rebut, and shall have his name restored to such list if improperly stricken therefrom. And the clerk of the county court shall furnish one of said copies to the election commissioners of the respective voting precincts with the ballot boxes and other election supplies for use by them in conducting the election in said voting precincts.

Sec. 8. Any registrar who shall wilfully or maliciously register the name of any person not a qualified voter of said precinct or reject from registration the name of any qualified voter of the precinct contrary to the provisions of this act shall be deemed guilty of a felony and upon conviction therefor shall be confined in the state peniten-

tiary not less than one, nor more than five years, or fined not less than fifty, nor more than five hundred dollars at the discretion of the court.

Sec. 9. No person shall be allowed to vote at any election hereafter held in this state after the first registration shall have been completed according to the provisions of this act, unless he shall have been registered, (except as hereinafter provided), and the commissioners of every election shall allow only those to vote whose names shall appear on the registration book returned by the proper registrar (except as hereinafter provided); and any commissioner who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than fifty nor more than one hundred dollars, or imprisoned not less than ten nor more than ninety days in the county jail, or both, at the discretion of the court, for every such offence.

Sec. 10. Any voter who shall have been registered in any precinct as hereinbefore provided, and shall have removed from such precinct to another precinct within the same county, may obtain a certificate from the registrar of the precinct in which he has registered, or from the clerk of the county court in case the registration books have been filed with such clerk, and present the same to the election commissioners of the precinct wherein he resides, and if such commissioners shall be satisfied that such voter has a legal residence in the precinct wherein he offers to vote, they shall register such voter and allow him to vote. When such certificate is issued the name of such voter shall be stricken by the registrar or clerk from the book from which such certificate is issued.

Sec. 11. In case any special election is called and held, the registrars appointed prior to the preceding general election shall give the notice hereinbefore provided for and shall register the voters in their respective precincts as heretofore provided at least fifteen days before such special election is held and make and file two copies of their registration books with the clerk of the county court not later than ten days before such special election, and the county court shall at a special session held on the fifth day before such special election examine such books and otherwise proceed in regard to the same as provided in section seven of this act; and the clerk of the county court shall furnish such books to the election commissioners as provided in said section for any such special election. For the purpose of this section the county court or clerk thereof in vacation shall fill

any vacancy in the office of registrar caused by death, resignation or removal from the voting precinct of any registrar.

Sec. 12. The said registrars shall receive as compensation for their services under this act the sum of ten cents for each name so registered by them, to be allowed by the county court, payable out of the county treasury. But if the registration of voters is made necessary by the calling of a special election in a district, independent district, or municipality, the compensation therefor shall be paid by the board or body calling the said election, out of any funds at their disposal.

Sec. 13. The commissioners of election shall return the registration books of such election precinct, together with the ballot boxes, etc., to the clerk of the county court.

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

(House Bill No. 43.)

CHAPTER 20.

AN ACT providing for the submission of two proposed amendments to the constitution of the state of West Virginia, as follows:

1. Amending section four of article four.
2. Amending section twenty-three of article eight.

[Passed March 3, 1908. In effect ninety days from passage. Approved March 4, 1908.]

Sec.

1. The question of ratification or rejection of two amendments to the constitution of West Virginia to be submitted to voters; when; first proposed amendment; second proposed amendment.
2. How proposed amendments designated.
3. Duty of board of ballot commissioners of each county as to preparation and printing of ballots; duty of commissioners of elections;

Sec.

- rights of voters; how election conducted.
4. Duty of election commissioners after result is ascertained; duty of commissioners of county court; certificates to be filed; where.
 5. Certificates to be laid before the governor; when and for what purpose; when proposed amendments to be in force if ratified.
 6. Duty of governor as to publication of proposed amendments.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the question of the ratification or rejection of two amendments to the constitution of West Virginia, proposed in accordance with the provisions of section two of article fourteen of said

constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred and eight, which two proposed amendmeents hereby numbered are as follows:

First proposed amendment.

Section four of article four to be amended so as to read as follows:

Sec. 4. No person, excepting citizens entitled to vote, shall be elected to any state, county or municipal office; but the governor and judges must have attained the age of thirty, and the attorney general and senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the state for five years next preceding their election or appointment, or be citizens at the time of this constitution goes into operation.

Second proposed amendment.

Section twenty-three of article eight to be amended so as to read as follows:

Sec. 23. The commissioners shall be elected by the voters of the county, and hold their office for the term of six years, except at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner, as they may determine, one of their number who shall hold his office for a term of two years, one for four years and one for six years, so that one shall be elected every two years. But no two of said commissioners, shall be elected from the same magisterial district. But if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district who shall receive the next highest number of votes shall be declared elected. Said commissioners shall annually elect one of their number as president, and each shall receive four dollars per day for his services in court, to be paid out of the county treasury: *provided*, that such compensation may be increased in any county by the assent of a majority of the votes cast on the question at any general or special election.

Sec. 2. For convenience in referring to the said proposed amendments, and in the preparation of the form of the ballot hereinafter

provided for, said two proposed amendments, as hereinbefore numbered, are hereby designated as follows:

No. 1. To be known as "Qualification Amendment." and

No. 2. To be known as "County Court Amendment."

Sec. 3. For the purpose of enabling the voters of the state to vote on the question of said proposed amendments to the constitution at the said general election to be held in the year one thousand nine hundred and eight, the board of ballot commissioners of each county are hereby directed to provide and have printed a separate ballot of convenient size, distinctly printed and in form substantially as follows:

Ballot on constitutional amendments.

1. Qualification amendment.

Amending section four of article four,

For Ratification.

For Rejection.

2. County court amendment.

Amending section twenty-three of article eight.

For Ratification.

For Rejection.

Each amendment to be voted on separately.

The same number of said separate ballots shall be printed, and shall be supplied to the several voting places in each county, and be paid for in the same manner as is provided for the regular ballots to be used at said general election, as set out and specified in chapter three of the code. The commissioners of election at the several voting places in each county shall, upon request, furnish to each voter one of said separate ballots to be used by him for voting on the question of said proposed amendments; but any voter shall also have the right to vote on the question of said proposed amendments by any other ballot printed or written, which he may see fit to use, and which sufficiently discloses his intention, and no ballot cast at said election on the question of the proposed amendments shall be rejected if it sufficiently appears therefrom what the voter intended; and every voter shall have the right to vote on both of said proposed amendments, or on either of them as he shall see fit.

The said election on the said proposed amendments at each place of voting shall be superintended, conducted and returned, and the re-

sult thereof ascertained by the same officers and in the same manner as the election of members of the legislature is superintended, conducted and returned and result ascertained at said election; and all the provisions of the law relating to general elections, including all duties to be performed by and officer or board, as far as applicable and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendments shall be counted, strung and sealed up separately from the other ballots cast at said election.

Sec. 4. As soon as the result is ascertained, the commissioners, or a majority of them, at each place of voting, shall make out and sign two certificates thereof, in the following form, or to the following effect: "We the undersigned, who acted as commissioners of the election held at _____, in the district of _____, in the county of _____, on the ____ day of _____, one thousand nine hundred and eight, upon the question of the ratification or rejection of the proposed constitutional amendments to section four of article four and section twenty-three of article eight, do hereby certify that the result of said election is as follows:

Amending section four of article four,

For ratification, _____ votes; for rejection, _____ votes.

Amending section twenty-three of article eight,

For ratification, _____ votes; for rejection, _____ votes.

Given under our hands this ____ day of _____, one thousand and nine hundred and eight."

The said two certificates shall correspond with each other in all respects, and contain the full and true returns of said election at each place of voting on said question. The said commissioners, or one of them, shall within four days, excluding Sunday, after that on which said election was held, deliver one of said certificates to the clerk of the county court, together with the ballots, and the other to the clerk of the circuit court of the county.

The said certificates, together with the ballots cast on the question of said proposed amendments, shall be laid before the commissioners of the county court at the court house, at the same time the ballots, poll books and the certificates of the election for the members of the legislature are laid before them; and as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out

and signed by said commissioners, as a board of canvassers in the form or to the following effect:

“We the board of canvassers of the county of _____, having carefully and impartially examined the returns of the election held in said county in each district thereof, on the — day of _____, one thousand nine hundred and eight, do certify that the result of the election in said county on the question of the ratification or rejection of the proposed amendments to section four of article four, and section twenty-three of article eight of the constitution of this state, is as follows:

Amending section four of article four,

For ratification, _____ votes; for rejection, _____ votes.

Amending section twenty-three of article eight,

For ratification, _____ votes; for rejection, _____ votes.

Given under our hands this — day of _____, one thousand nine hundred and eight.”

One of said certificates shall be filed in the office of the clerk of the the county court, and the other forwarded by mail to the secretary of state, who shall file and preserve the same until the day on which the result of said election in the state is to be ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the said certificates shall be laid before the governor, whose duty it shall be to ascertain therefrom the result of said election in the state, and declare the same by proclamation published in some one or more newspapers printed at the seat of government. If a majority of the votes cast at the said election upon said question be for ratification of said amendments, or either of them, the proposed amendments so ratified shall be of force and effect from the time of such ratification and be parts of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amendments, with the proper designations for the same as hereinbefore adopted, to be published at least three months before such election in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall, in the first instance if found necessary by him, be paid out of the governor's contingent fund, and be afterwards repaid to such fund by appropriation of the legislature.

(Senate Bill No. 36.)

CHAPTER 21.

AN ACT to amend and reenact section thirty-four of chapter three of the code, included in the code of nineteen hundred and six, as section fifty-three thereof, and amended and reenacted by the acts of nineteen hundred and seven, regular session, chapter seventy-one.

[Passed February 28th, 1908. In effect from passage. Approved February 29, 1908.]

<p>Sec. 34. How all ballots to be prepared; plan of ballot; state executive committee of each political party to adopt party emblem; to be</p>	<p>Sec. certified to clerk of circuit court; preparation of ballot by voter; when ballot not to be counted; when ballot not to be rejected.</p>
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Be it enacted by the Legislature of West Virginia:

That section thirty-four of chapter three of the code, as last amended by the acts of nineteen hundred and seven, be amended and reenacted so as to read as follows:

Sec. 34. All ballots prepared under the provisions of this chapter shall be printed in black ink on number two white book paper sufficiently thick that the printing cannot be distinguished from the back, and shall contain the names of every candidate whose nomination for any office to be voted for at the election has been certified and filed according to law, and no others.

The tickets, except the heading, which shall be in display type, shall be printed from brevier type; the name or designation of the office and the residence of the candidate in lower case letters, and the name of the candidate in capital letters. The name and residence of the candidate may be printed in the same line. The name of each candidate shall be printed in a space defined by ruled lines, and with a blank square on its left inclosed by heavy dark lines. If, upon any ticket, there be no candidate or candidates for a designated office, a blank space equal to the space that would be occupied by such name or names, if they were printed thereon, with the blank space herein provided for, shall be left. The heading of each party ticket, including the name of the party and the device above and the large circle between the device and such name, shall be separated from the rest of the ticket by a heavy line; and the circle above the name of the party in which the voter is to place the cross mark, if

he desires to vote the straight ticket, shall be defined by heavier lines than the lines defining the blank spaces before the names of candidates, and such circle shall be surrounded by the following words printed in heavy face nonpareil type: "For a straight ticket mark within this circle." Each party ticket shall be separated from other party tickets and bordered on either side by a heavy border, or a broad solid line, at least one-eighth of an inch wide, and the edges of the ballot on either side trimmed off up to one-half inch of the borders or solid line described.

The names of the candidates shall be arranged on the ballot in tickets or lists in separate columns under the respective party or political or other designation certified, each column or ticket containing the names of candidates nominated by the same political party and no others. In elections for presidential electors the names of the candidates for president and vice-president of the United States shall be placed on the ticket immediately following the name of the party, and preceding the names of the presidential electors, and shall be certified to the clerks of the circuit courts by the chairman and secretary of the state executive committee of the political party making the nomination. The names of the candidates on each ticket shall be arranged in groups, with a heading over each group printed in heavy faced brevier type to indicate the political division in which such group is to be voted for. The arrangement of the ballot shall conform as nearly as practicable to the plan here given:

The tickets of the several political parties shall be printed on the ballot in parallel columns, each ticket in a separate column headed by the chosen device, and the tickets in such order on the ballot, and the names of the offices in such order on the ticket, as the secretary of state shall direct, preference, however, being given to the political party which cast the highest number of votes for the head of the ticket at the last preceding presidential election, and so on. No ticket or list of candidates shall be printed under the name of any party containing more candidates for any office than are to be elected.

The ballot shall be so printed as to give each voter a clear opportunity to designate by a cross mark in a large blank circular space three-quarters of an inch in diameter below the device and above the name of the party at the head of the ticket or list of candidates, his choice of a party ticket and desire to vote for each and every candidate thereon; and by a cross mark in a blank inclosed space on the left and before the name of each candidate, his choice of particular candidates.

On the back of the ballot shall be printed or stamped in black ink the words "Official Ballot," with the date of the election, and underneath shall be two blank lines, followed by the words "Poll Clerks." On one of these lines each poll clerk shall personally write his name in ink.

The state executive committee of each political party shall adopt a party device or emblem for its party, to be printed at the head of its ticket on the ballot, and shall certify the same to the clerk of the circuit court of each county at least sixty days before any election; and the device shall remain the same until changed and certified as aforesaid. No two parties shall adopt the same device, or so near the same as likely to lead to confusion; and in such case the preference shall be given to the party casting the highest number of votes for the head of the ticket at the last preceding presidential election. When a ticket or person is nominated by petition, the petition shall show the device adopted by the petitioners.

In preparing his ballot the voter shall use a black lead pencil and observe the following rules:

First. If the voter desires to vote a straight ticket, or in other words for each and every candidate of one party for whatever office nominated, he shall either:

(a) Make a cross mark in the circular space below the device and above the name of the party at the head of the ticket; or

(b) Make a cross mark on the left and opposite the name of each and every candidate of such party in the blank space provided therefor; or,

(c) Mark out, by lines through all the ticket in the ballot, other than the ticket he desires to vote.

Second. If the voter desires to vote a mixed ticket, or in other words for candidates of different parties, he shall either:

(a) Omit making a cross in the circular space above the name of the party, and make a cross mark in the blank space before the name of each candidate for whom he desires to vote on whatever ticket the name may be; or,

(b) Make a cross mark in the circular space above the name of the party for some of whose candidates he desires to vote, and then make a cross mark before the name of any candidate of any other party for whom he may desire to vote; in which case the cross mark in the circular space above the name of the party will cast his vote for every candidate on the ticket of such party, except for offices for which candidates are marked on other party tickets, and the cross marks before the names of such candidates will cast his vote for them; or,

(c) Write with black lead pencil the name of person for whom he desires to vote, in the space immediately below the name of the opposing candidate for the same office, on the ticket voted by him, and the name so written shall be counted.

If, in marking either a straight or mixed ticket as above defined, a cross mark is made in the circular space above the name of a party at the head of the ticket, and also one or more cross marks made before the name or names of candidates on the same ticket for offices for which candidates on other party tickets are not individually marked, such marks before the names of candidates on the ticket so marked, shall be treated as surplusage and ignored; and the ballot be counted for all the candidates on the ticket thus marked for offices for which no candidate on other tickets are marked.

If the voter desires to votes for any person whose name does not appear on the ticket he can substitute the name by writing it with black lead pencil in the proper place, and making a cross mark in the blank space at the left of the name so written.

If the voter mark more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the

voter's choice for an office, to be filled, his ballot shall not be counted for such office.

No ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice.

(Senate Bill No. 7.)

CHAPTER 22.

AN ACT to prevent corrupt practices in election, to limit the expenses of candidates, to prescribe the duties of candidates and political committees, and provide penalties and remedies for the violation of this act.

[Passed February 25, 1908. In effect ninety days from passage. Approved March 3, 1908.]

Sec.

1. Who deemed guilty of bribery at elections; penalty; law shall not be construed to extend to money paid on account of proper expenses; proper expenses defined.
2. Persons also deemed guilty of bribery in elections; penalty; when person not to be prosecuted; when person making false charge deemed guilty of felony.
3. When person deemed guilty of misdemeanor for corruptly influencing voter by certain methods.
4. Penalty for person to indict or threaten any damage to voter to compel him to vote for any person or candidate.
5. Penalty for person deemed guilty of impersonation or person applying for ballot for own use after voting once.
6. Penalty for candidates for office, to be filled by popular vote, to expend any money, etc. to secure aid in securing nomination or election; except certain sum determined upon; basis of assessment.
7. Time for holding caucus, convention or primary to nominate candidate for certain offices; statement to be made out and filed, with whom; what to show.
8. Penalty for failure to comply with the provisions of section seven.
9. No person to receive any salary,

Sec.

- etc. prior to filing of statement.
10. What deemed a political committee.
11. Political committees to appoint and constantly maintain a treasurer; duty of treasurer; unlawful acts.
12. Duty of treasurer of political committee as to keeping of statements.
13. Treasurer to file statement in office of county clerk; what statement to set forth.
14. Every clerk of the county court shall receive and file statement; to be kept on record, subject to public inspection; certified copies of statements admitted as evidence in all courts.
15. Treasurer deemed guilty of misdemeanor if he fail to file report with county clerk.
16. Treasurer deemed guilty of misdemeanor for committing certain offences.
17. No life insurance company, etc. to give directly or indirectly any sum of money or other thing of value to any candidate for nomination or election; penalty.
18. Penalty for violation of act not specifically provided for.
19. Judge of circuit and criminal courts to give this act in charge to all grand juries.
20. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The following persons shall be deemed guilty of bribery at elections and shall be punished as in this section provided.

First. Every person who shall directly or indirectly, by himself or by other person on his behalf, give, lend, or agree to give or lead or offer, promise, or promise to procure or endeavor to procure any money or valuable consideration or any place or employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or to vote for any particular person or candidate, or object, or to refrain therefrom or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at an election, or having voted for any particular person or candidate or object, or refraining therefrom.

Second. Every person who shall in consequence of any gift, loan, or offer, promise of any place or employment public or private, procurement, or agreement, procure or engage, promise or endeavor to procure the election of any person to a public office, or the vote of any voter at any election.

Third. Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money wholly or in part expended in bribery at any election; any person so offending shall be guilty of a misdemeanor and may be punished by imprisonment in the county jail for a term of not less than six months or more than one year, at the discretion of the court, and be fined not more than one thousand dollars, and shall in addition thereto forfeit his office. If any person, or committee or representative of any church, school, charitable institution or religious society shall knowingly solicit a candidate for office or a candidate for nomination to any office, to give, lend, or agree to lend, offer, promise, or promise to procure any money or valuable consideration for use of himself or other person, or for said church, school, charitable institution or society, the person or persons so offending shall be guilty of misdemeanor and fined not exceeding one hundred dollars.

Provided, always, that the foregoing enactment shall not extend to or be construed to extend to any money paid or agreed to be paid for or on account of any proper expenses incurred at or concerning any election.

Proper expenses are herein defined to be such as are or may by reasonable construction be included only in the following, that is to say:

First. For the personal traveling expenses of the candidate.

Second. For the reasonable rent of hall or room for the delivery of speeches relative to principles of candidates in any pending election.

Third. For the payment of reasonable compensations to public speakers and musicians at public meetings and their necessary traveling expenses.

Fourth. Printing and distribution of list of candidates or sample tickets, speeches or addresses by pamphlets, newspapers or circulars relative to candidates or political issues or principles, cards, handbills, posters or announcements.

Fifth. For copying and classifying poll lists.

Sixth. For making canvasses of voters.

Seventh. For expressage or freight or charge for other like purpose, and for postage, telegraph, telephone, or other public messenger service.

Eighth. For reasonable clerk hire at the headquarters or offices of campaign committees, or at the office of the candidates.

Sec. 2. The following persons shall also be guilty of bribery at elections and shall be punished as in this section provided:

First. Every voter who shall, before or during any election, directly or indirectly by himself, or by any other person on his behalf, solicit, demand, receive, agree or contract for any money, gift, loan, or valuable considerations, office, place or employment, or solicit any endorsement on a note or other paper public or private for himself or for any other person, for voting or agreeing to vote, or for voting for any person or candidate or object or agreeing to refrain therefrom, or from refraining or agreeing to refrain from voting at any election.

Second. Every person who shall, after any election, directly or indirectly by himself, or any other person on his behalf solicit, demand or receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election, and any person so offending shall be guilty of a misdemeanor and may be punished by imprisonment in the county jail, at the discretion of the court, for not more than six months and be fined not more than one hundred dollars. But if such voter or person mentioned in this section shall testify and speak the truth on behalf

of the state in any prosecution against the giver or promiser, he shall not be prosecuted for any offence under this section.

Any person who shall make a false charge under oath or give false evidence against a person who has been a candidate for office and who has received the majority of the votes cast for the office for which such person was a candidate, at any election, held in this state and any person who shall give false evidence, either in the form of an affidavit or as a witness before any court, or in any impeachment proceeding against any candidate, and any persons who shall form a conspiracy or assist in the formation thereof or become conspirators against any candidate to wrongfully deprive such candidate of the office for which he has received a majority of the votes cast for such office, shall be guilty of a felony and upon conviction thereof be confined in the penitentiary of this state not less than five nor more than ten years. Conspirators within the meaning of this section shall include each person who shall become engaged with another or others, in an effort to wrongfully deprive a person of the office for which such person had received a majority of the votes cast for such office.

Sec. 3. Any candidate for a public office, or any other persons seeking to become the nominee of any party as such candidate, who prior to any primary election, convention, or other meeting held to select delegates to a convention to nominate a candidate for the public office which he seeks to obtain, or who, at any time prior to the election whereat an incumbent for the office so sought by him is chosen, corruptly by himself, or by any other person, directly or indirectly, gives or provides or pays, wholly or in part, or promises to pay wholly or in part the expenses of going to such election, primary election, convention, or other meeting, or providing any meat, drink, entertainment, or provisions to or for any person for the purpose of corruptly influencing him, or any other person to give or refrain from giving his vote at such election, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars.

Sec. 4. Every person who shall directly or indirectly, by himself or any other person on his behalf, make use of, or threaten the use of any force, violence or restraint or inflict or threaten to inflict by himself or by any other person, any damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or to vote for any person or candidate or object or to refrain therefrom

or refrain from voting at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede and prevent the free exercise of the franchise of any election shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars.

Sec. 5. A person shall for all purposes of this act, be deemed guilty of the offence of impersonation who at any election held pursuant to the laws of this state, applies for a ballot in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any election applies at the same election for a ballot in his own name or in any other name for his own use; and any person who commits the offence of impersonation, or who aids, abets, counsels or procures the commission of that offence shall be guilty of a misdemeanor and upon conviction thereof shall be confined in the county jail for a term of not exceeding one year.

Sec. 6. No candidate for congress or for any public office in this state, or any county, district or municipality thereof, which office is to be filled by popular election, shall by himself, by or through any agent or agents, committee or organization, or any person or persons whatsoever, in the aggregate, pay out or expend, or promise or agree or offer to pay, contribute or expend any money or other valuable things in order to secure or aid in securing his nomination or election respectively, to any office to be voted for at same election, or in aid of any party or measure in excess of a sum to be determined upon the following basis, namely:

For five thousand voters or less, two hundred and fifty dollars; for each one hundred voters over five thousand and under twenty-five thousand, two dollars for each one hundred voters; over twenty-five thousand and under fifty thousand, one dollar; and for each one hundred voters over fifty thousand, fifty cents. The number of voters to be ascertained by the total number of votes cast for all the candidates for such office at the last preceding regular election held to fill the same, and any payment, contribution, or expenditure, or promise, agreement, or offer to pay, contribute or expend any money or valuable thing in excess of said sum, for such objects and purposes, is herein declared unlawful and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and be fined not less than two hundred and not more than five hundred dollars.

Sec. 7. Every person who shall be a candidate before any caucus

or convention, or at any primary election, for nomination of candidates for representatives in the congress of the United States, and all state, county and district officers, which caucus, convention or primary election shall be held not earlier than the fifteenth day of May, nor later than the fifteenth day of August next preceding a general election, or at any election for any state, county, or district office, or for senator or representative in the congress of the United States, shall within thirty days after the election held to fill such office or place, make out and file with the officers empowered by law to issue the certificate of election to such office or place and a duplicate thereof with the clerk of the county court for the county in which such candidates reside, a statement in writing, which statement shall be subscribed and sworn to by such candidate before an officer authorized to administer oaths, setting forth in detail all sums of money contributed, disbursed, expended or promised by him to the best of his knowledge and belief by any other person or persons in his behalf, wholly or in part, in endeavoring to secure or in any way in connection with his nomination or election to such office or place, or in connection with the election of any other person at said election; and showing the dates when, and the persons to whom, and the purpose for which all such sums were paid, expended, or promised. Such statement shall set forth that the same is as full and explicit as affiant is able to make it.

Sec. 8. Any person failing to comply with the provisions of the foregoing seventh section of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars.

Sec. 9. No person shall receive any salary or any emoluments for any period prior to the filing of said statement provided for in section seven.

Sec. 10. Every two or more persons who shall be elected, appointed, chosen, or associated for the purpose, wholly or in part, for raising, collecting or disbursing money or controlling or directing the raising, collection or disbursement of money for election purposes, and every two or more persons who shall cooperate in the raising, collection or disbursements, or in controlling or directing the raising, collection or disbursement of money, used or to be used in the furtherance of the election, or defeat the election to public office of any person or any class or number of persons, or in the furtherance of the enactment or to defeat the enactment of any law or ordinance

or constitutional provision, shall be deemed a political committee within the meaning of this act.

Sec. 11. Every political committee shall appoint and constantly maintain a treasurer to receive, keep and disburse all sums of money which may be collected or received or disbursed by such committee, or by any of its members for any of the purposes mentioned in section ten of this act, for which such committee exists or acts, and unless such treasurer is first appointed and thereafter maintained, it shall be unlawful and a violation of this act for a political committee or any of its members to collect, receive, or disburse moneys for any such purpose. All money collected or received or disbursed by any political committee, or by any member or members thereof, for any of the purposes mentioned in section ten of this act, and for which said committee exists or acts, shall be paid over and made to pass through the hands of the treasurer of such committee and shall be disbursed by him; and it shall be unlawful and a violation of this act for any political committee, or for any member or members of a political committee to disburse or expend money for any of the objects or purposes mentioned in section ten of this act, and for which such committee exists or acts, until the money so disbursed or expended shall have passed through the hands of the treasurer of said political committee.

Sec. 12. Every treasurer of a political committee and every person who shall at any time act as such treasurer shall, whenever he receives or disburses money as such treasurer or for or on account of any of the objects or purposes mentioned in section ten of this act, immediately enter and thereafter keep in a proper book or books to be provided and preserved by him, a full, true and detailed statement and account of each and every sum of money so received or disbursed by him setting forth in such statement the sum so received or disbursed, as the case may be, and the date when and the person from whom received, or to whom paid, as the case may be, and the object and purpose for which such sum was received or disbursed.

Sec. 13. Every treasurer of a political committee as defined in this act and every person who acts as such treasurer, shall, within thirty days after each election whether state, county, or district election, in or concerning or in connection with which he shall have received or disbursed any money for any of the objects or purposes mentioned in section ten of this act, prepare and file in the office of the county clerk of the county court in which such treasurer resides

a full, true and detailed account and statement, subscribed and sworn to by him before an officer authorized to administer oaths, setting forth each and every sum of money received or disbursed by him for any of the objects or purposes mentioned in section ten of this act, within the period beginning four months before such election and ending on the day on which such statement is filed, the date of each receipt and each disbursement, the name and address of the person from whom received or to whom paid, and the object or purpose for which the same was received and the object or purpose for which it was disbursed. Such statements shall also set forth the unpaid debts and obligations, if any, of such committee, with the nature and amount of each, and to whom owing, in detail, and if there are any unpaid debts or obligations of such committee, such statement shall state such fact.

Sec. 14. Every clerk of the county court in each of the counties of this state shall receive and file in his office and there keep as a part of the records thereof, all statements and accounts required by this act to be filed with him; and the same shall be recorded in a well bound, suitable record book to be kept in his office as a part of the records therein. Such statements and accounts and record book shall at all reasonable times be open to public inspection. Copies of such statements or records certified by such clerk, of any such statement or statements or records, shall be admitted to evidence in all courts with like force and effect as the original would have if produced.

Sec. 15. Every treasurer of a political committee, as defined in this act, who shall wilfully fail, neglect or refuse to make out, verify and file with the clerk of the county court the statement required in this act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars or more than five hundred dollars.

Sec. 16. Every treasurer of political committee and every person who shall receive any money to be applied to any of the purposes mentioned in section ten of this act who shall either:

First. Neglect or fail to keep a correct book or books of account, setting forth all the details required to be set forth in the account and statement contemplated by this act, (except that the book or books need not be subscribed or sworn to) with intent to conceal the receipt or disbursement of any such sum received or disbursed by him, or by any other person for the purpose or object for which

the same was received or disbursed or conceal the fact that there is any unpaid obligation of such treasurer of such committee, or the nature or amount thereof, or to whom owing in detail; or,

Second. Mutilate, deface or destroy any such book or books of account with intent to conceal any fact by such book or books, shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars or more than five hundred dollars.

Sec. 17. No life or fire insurance company, railroad, telegraph, express, telephone, coal, oil, gas company, or any other corporation or joint stock company or association, shall directly or indirectly, give or offer to give, contribute or offer to contribute, any money, or other thing of value or profit to any candidate for nomination for, or election to any office embraced within this act, and any violation hereof shall be a misdemeanor and upon conviction thereof such life, or fire insurance company, railroad, telegraph, express, telephone, coal, oil or gas company or other corporation, shall be fined not exceeding one thousand dollars.

Sec. 18. Any violation of any of the provisions of this act, the penalty for which is not herein specifically provided for, shall be deemed a misdemeanor, and shall be upon conviction, punished with a fine of not to exceed one hundred dollars.

Sec. 19. The judges of all circuit and criminal courts in this state shall give this act in charge to all grand juries empanelled in their respective courts.

Sec. 20. All acts or parts of acts inconsistent with this act are hereby repealed.

(Senate Bill No. 16.)

CHAPTER 23.

AN ACT to amend and reenact section eighty-eight of chapter forty-five of the code relating to the state normal school and its branches and the value of a diploma issued therefrom.

[Passed February 11, 1908. In effect ninety days from passage. Approved February 14, 1908.]

Sec. 88. Board of regents; powers and duties; teachers; diplomas, academic department; provisions governing Marshall College to ap-

Sec. ply to any branch of the state normal school; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section eighty-eight of chapter forty-five of the code be amended and reenacted so as to read as follows:

Sec. 88. 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; prescribe 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 in 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 prescribed by said regents, which diploma hereafter issued shall be equivalent in all respects to a first grade certificate for a period of five years.

The said regents shall also establish an academic department in said school, in which shall be taught all the branches required for admission to the state university and pupils in this department shall be admitted upon the same terms and conditions and be entitled to all the privileges of the normal pupils of said school.

They shall determine the number of pupils to be received in the academic department from each county or judicial circuit of this state, conforming as nearly as possible to the ratio of population and the mode of selecting them as hereinbefore provided for normal

pupils. The said regents may establish a pay department in said school whenever the accommodations thereof will admit, and into either the normal or academic departments 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 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 college. The foregoing provisions respecting Marshall college shall apply with equal force and effect to any branch of the state normal school, wherever situated, and graduates thereof shall have and enjoy the same rights and privileges as graduates of Marshall college.

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

(House Bill No. 13.)

CHAPTER 24.

AN ACT to amend and reenact section eighty-five of chapter forty-five of the code, relating to the West Virginia university and the value of a diploma issued from said institution.

[Passed February 11, 1908. In effect ninety days from passage. Approved February 14, 1908.]

<p>Sec. 85. Graduation of students; diplomas to be equivalent to first grade cer-</p>		<p>Sec. tificates for a period of five years; provided etc.</p>
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Be it enacted by the Legislature of West Virginia:

That section eighty-five of chapter forty-five of the code be amended and reenacted so as to read as follows:

Sec. 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, which diploma hereafter issued shall be equivalent in all respects to a first grade certificate for a period of five years: *provided*, that the person obtaining such diploma shall have completed not fewer than six courses in the department of education of said institution.

(Senate Bill No. 47.)

CHAPTER 25.

AN ACT to amend and reenact sub-section III of section ninety-eight-*b* of chapter forty-five of the code of one thousand nine hundred and six relating to the West Virginia colored institute.

[Passed February 21, 1908. In effect ninety days from passage. Approved February 25, 1908.]

<p>Sec. 98-<i>b</i>-III. Department of education; materials, apparatus, etc.; state superintendent of free schools to</p>	<p>SEC. issue diplomas to whom; value of diplomas.</p>
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Be it enacted by the Legislature of West Virginia:

That sub-section III of section ninety-eight-*b* of chapter forty-five of the code of one thousand nine hundred and six be amended and reenacted so as to read as follows:

Sub-Sec. 98-*b*. III. The board of regents shall from time to time establish such departments of education in literature, science, art and agriculture, not inconsistent with the terms of the several acts of congress hereinbefore referred to, as they deem expedient, and as the funds under their control will warrant, and purchase such materials, implements and apparatus as may be requisite to the proper instruction of said colored students in all said branches of learning as to carry out the intent and purposes of said acts of congress.

The state superintendent of free schools shall prepare suitable diplomas to be granted to the students of the normal department in said institute who have completed the normal course of study prescribed by said regents, which diploma, hereafter issued shall entitle the holder upon application in due form to the state superintendent, to a first grade certificate in duplicate, for a period of five years.

(House Bill No. 22.)

CHAPTER 26.

AN ACT to amend and reenact section six of chapter forty-five of the code of West Virginia, relating to the salaries of teachers, and compensation of the members of the boards of education.

[Passed February 18, 1908. In effect ninety days from passage. Became a law without the approval of the Governor.]

Sec. 6.	Boards of education, first meeting; determination of number and sal-		Sec.	Articles of teachers; quorum; presiding officer, compensation.
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Be it enacted by the Legislature of West Virginia:

That section six of chapter forty-five of the code of West Virginia be amended and reenacted so as to read as follows:

Sec. 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 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 grades in the several sub-districts, as follows: Teachers having certificates of the grade of number one, shall be paid not less than forty dollars per month; those holding certificates of the grade of number two, not less than thirty-five dollars per month; and those holding certificates of the grade of number three, not less than thirty dollars per month. And the trustees of the several sub-districts shall in no case transcend or diminish 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 on the sheriff for any sum of money which may have been already ordered to be paid. The members of the board of education shall each receive as compensation for their services the sum of two dollars and fifty cents per day, to be paid in like manner as the salary of the clerk of the board of education: *provided*, that no commissioner shall receive pay for more than ten days and no president for more than fifteen days in one year, one day of which shall be spent by each of them in attending a county teachers' institute held in his county.

(House Bill No. 37.)

CHAPTER 27.

AN ACT to amend and re-enact chapter forty-five of the code of West Virginia, relating to education.

[Passed March 2, 1908. In effect ninety days from passage. Approved March 6, 1908.]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. School year; shall begin and end, when; all reports, accounts and settlements to be made with reference to school year. 2. School district; every magisterial district a school district; to be divided into sub-districts; present districts and sub-districts to remain. 3. Board of education; how constituted; election; term of office. 4. Tie in vote, county superintendent to give deciding vote. 5. Vacancy, member vacates office when employed to teach; vacancy to be filled by county superintendent. 6. Oath of members; president and commissioners to take oath within ten days after election is declared; oath to be filed with secretary of board. 7. Board a corporation; legal powers of board defined. 8. Service of process; may be served on secretary or any member; board shall hold and dispose of any grant, devise, bequest, etc.; title of land vested in board; board to obtain general warranty deed. 9. Property exempt from execution, and free from lien or distress. 10. Property to be inspected; may be sold; president of board to examine school property at least once a year; must report conditions of same to board; shall sell buildings not suitable for school purpose; proceeds to be added to building fund. 11. Board of education to have general control of schools; may establish graded schools and high schools; may change boundaries of sub-districts and increase and diminish number thereof; shall define and enter of record the boundaries of the several districts and sub-districts; every village of fifty inhabitants or more to be included in one sub-district. 12. Appeal may be made to county superintendent concerning change in boundaries or change in number of sub-districts; petition to be presented in such case; any person aggrieved by decision of county superintendent may appeal to circuit court. 13. Board may provide sites and buildings, must improve grounds | <p>Sec.</p> <ol style="list-style-type: none"> and provide for furniture, etc., and keep same in good repair; board may not purchase apparatus without advice and consent of county superintendent, had in writing. 14. Locations and plans for school building must be approved by county superintendent; county superintendent to select plans in case board cannot agree. 15. Board of education may condemn land under certain conditions. 16. Board of education must cause schools to be taught; board may employ teachers when trustees fail to do so. 17. School may be discontinued, when; teachers not to receive any further salary when school is discontinued. 18. Boards may provide jointly for the construction of houses, and teaching of schools; title of land, and buildings to be vested in whom; terms of agreement to be entered of record in minutes of respective boards; each district intended to bear proportionate amount of cost. 19. Boards to require bonds for all contracts in excess of fifty dollars. 20. Vote on school levy; how to prepare ballot. 21. Duty of board in laying levy; at meetings held on second Tuesday in August must make statement of fiscal affairs of district; statement to set forth amount to be raised for teacher's and building funds; rate of levy and aggregate of property assessed; must publish statement; board to meet again, on second Tuesday in August to consider objections and make corrections; to lay levy; limit for building fund; limit for teacher's fund; levy for high school; increase in levy for outstanding bonds; state superintendent to withhold an amount not to exceed fifty thousand dollars for the aid of certain districts. 22. Additional levy; question to be submitted to voters of district; limit of additional levy; bonded indebtedness; additional levy for bonded indebtedness to be submitted to vote; ticket for such election; board may continue to |
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| | lay levy without an additional vote. | 41. | Auditor to ascertain amount of general school fund and notify state superintendent; state superintendent to apportion to counties and notify county superintendents. |
| 23. | Election for additional levy, how held; notice to be published; ticket for such election; secretary of board to furnish tickets, poll books, etc. | 42. | County superintendents to apportion general school fund to districts and modify books; board cannot draw share of general fund until they have laid levy. |
| 24. | Special debt levy; limit of same; balance, if any, from special levy to revert to what. | 43. | County superintendent to issue requisitions on auditor; amount due to be paid to sheriff; to be paid in two equal installments. |
| 25. | Limitation of board in expending money, incurring indebtedness and laying levy; penalty for violation of same. | 44. | Delinquent list to be returned.
<i>Secretary.</i> |
| 26. | State tax commissioner to prepare forms and instructions for making up statements; attorney general to prepare forms and instructions for holding any elections provided for in this act. | 45. | Secretary of board; to take oath; duties of; |
| 27. | Additional school term; special election for; term extended for two years. | 46. | Abstract of proceedings of board to be posted by secretary; statement of settlement with sheriff to be posted. |
| 27½. | Board to determine number of teachers and salary on first Monday in July; salaries to be fixed according to grade of certificate; maximum salary; trustees may change salaries fixed by board. | 47. | Secretary may administer oath. |
| 28. | Board of education may establish graded schools in villages or densely populated neighborhoods; may establish high schools; restrictions as to levies; board of education to have charge; extension of term in graded schools; district teachers' fund. | 48. | Assessor shall make a certificate showing aggregate value of personal property and real estate; shall deliver same to secretary, and to county superintendent; certificate to serve as basis for levy for ensuing year. |
| 29. | Additional salary; salaries in graded and high schools may be graded according to conditions existing. | 49. | Rate of levy to be reported by secretary; to whom; duty of county superintendent as to such report; duty of proper county officer; sheriff to collect taxes. |
| 30. | District high school may be established; question to be submitted to vote; notice of election to be posted four weeks before held; ballots to be used in such an election. | 50. | Penalty for officer failing to perform duties required by certain sections. |
| 31. | High school may be discontinued. | 51. | Secretary's duty as to certain reports to be made to county superintendent; when to be made; what to contain. |
| 32. | Meetings of board; quorum. | 52. | Salary of secretary of board; how paid.
<i>Trustees.</i> |
| 33. | Compensation of board. | 53. | Board to appoint trustees, when; term of office; shall within ten days qualify by taking oath of office. |
| 34. | Kindergartens may be established in towns of one thousand population or more; age of children to be admitted; qualifications of teachers in kindergartens. | 53½. | One trustee to have no power to act in absence of quorum; notice of meetings; two trustees to constitute quorum; to keep records of their acts and proceedings; books to be turned over to their successors. |
| 35. | Free text books may be provided by board; secretary to have charge of; teachers to distribute books; books unnecessarily injured or destroyed to be replaced by pupils; to be purchased directly from publisher. | 54. | Trustees may be removed from office; to be given ten days' notice; what notice to contain. |
| 36. | | 55. | Vacancy in office of trustees to be filled by board of education. |
| 37. | Books for libraries may be purchased by board; not more than ten dollars for each school in one year; books to be selected from lists recommended by the state superintendent. | 56. | Trustees to appoint teachers, when; appointment to be in writing; contract to be filed with secretary of board. |
| 38. | | 57. | Duplicate of certificate to be filed with secretary of board of education; no salary to be paid unless duplicate be filed. |
| 39. | Board may borrow money and issue bonds on certain conditions; question must be submitted to vote. | 58. | Appointment of certain persons prohibited; teachers may be removed, for what cause, etc. |
| 40. | General school fund; sources from which derived; distribution of; deductions from; amount of. | 59. | School holidays. |
| | | 60. | Trustees to visit schools of their district; their duties as to such visits. |

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| 61. Trustees to purchase supplies for school houses, etc.; to see that school houses are swept and fires are kept when necessary; fifty cents per week to be allowed person taking care of school houses; how paid. | building fund of the proper district; truant officer to make itemized statement of all fines to secretary of board and sheriff. |
| 62. Trustees may allow school houses to be used for holding religious, political or literary meetings. | 77. Compensation of truant officer; officer to make statement required in preceding section before being paid; other statements required. |
| 63. Trustees to furnish board of education with estimates of improvements necessary; to report condition of school houses, etc. | 78. Subjects to be taught in free schools. |
| 64. Report of expense to be kept; to be filed with the secretary of board; board's duty as to such report. | 79. State superintendent to prepare and to distribute manual containing course of study, etc.; to provide for the examination and graduation of pupils; to issue diplomas. |
| 65. Trustees shall be under the supervision of board of education; their action to be subject to revision and correction by the board. | <i>Examination of teachers.</i> |
| 66. Transfer of pupils from one district to another; duty of trustees of the sub-district in which the pupil lives; tuition; to whom such transfer to be subject; tuition. | 80. Examinations of teachers; authority vested in the state superintendent; time and place. |
| 67. Expenses to be divided where pupils transferred from one district to another. | 81. Expenses for preparation for printing of questions, the grading of manuscripts, etc.; appropriation for. |
| 68. How schools may be consolidated; board to provide for conveyance of pupils to and from school; contract for conveyance to be let to the lowest responsible bidder; expense to be paid out of the building fund. | 82. Branches in which examined. |
| 69. Who may attend school; tuition fee to be paid by person not a resident of district; to be paid in advance to the sheriff; fee to be placed to the credit of teachers' fund. | 83. State superintendent shall prepare and transmit questions for examination to the county superintendent; who not to be admitted to said examination. |
| 70. White and colored pupils shall not be taught in the same school or building; board to establish school for colored persons in any sub-district if possible; board may establish schools composed of pupils of adjacent districts in the manner provided for in section eighteen. | 84. State superintendent and assistants to examine and grade certificates; to issue certificates in duplicate; what certificates to show; certificates to be of three grades; how certificates to be graded. |
| 71. Division of funds for support of schools for colored children; duty of board of education; any board failing to comply with this section may be compelled to do so by mandamus. | 85. All certificates issued to be signed by the state superintendent; to be countersigned by county superintendent. |
| 72. Compulsory attendance; age; period of time; penalty for person failing to comply with this section; fines collected to be paid into the building fund. | 86. Certificates where valid; how revoked. |
| 73. Board to appoint truant officers; their duty. | 87. Duration of first grade certificates; can be renewed for a period of five years; proviso governing; second grade certificates valid for a period of three years; third grade certificates valid for one year; third grade certificate not to be issued to same person more than two years in succession; not more than one certificate of the same grade to be issued to an applicant in a school year; applicant taking more than one examination in the same year to receive statement of percentages made in the different branches; state and county superintendent to keep a register of all certificates granted; what register to show; state and county superintendent to turn over the said register to their successors. |
| 74. Any person who induces or attempts to induce any child to absent himself from school or harbors, etc., shall be guilty of misdemeanor; penalty. | 88. If any county superintendent intentionally change the examination prescribed by the state superintendent or commit any fraud, etc., he shall be guilty of a misdemeanor; penalty; persons tampering with the questions or having them in their possession without authority of law, before the examination shall be guilty of a misdemeanor; penalty. |
| 75. Duty of teacher to report all violations to truant officers. | 89. County superintendent to report any immorality or neglect of duty of any person holding a certifi- |
| 76. Fines collected for the violation of the four preceding sections shall be paid over by the justice to the sheriff; to be credited to the | |

- SEC.** cate to the state superintendent.
90. County superintendent to appoint assistants to help in examinations; when; compensation of assistants.
91. County superintendent to collect fee from applicants; what fee to collect; how fees to be applied; certified report of fees collected to be made to state superintendent; what to contain.
92. State superintendent to issue certificates in duplicate to graduates of the West Virginia university, etc.
93. Primary teachers' certificates; how issued and to whom; state superintendent to select branches upon which applicants to be examined; must give at least sixty days' notice before examination; applicant must have taught at least two years on a first or second grade certificate before receiving a primary teachers' certificate.
94. High school teachers' certificates to be valid throughout the state; branches upon which applicants to be examined; must be published at least sixty days before examination; how certificates to be renewed.
95. Grade of certain certificates; what salaries may be paid.
96. Duration of state certificates; may be renewed, how.
97. Teachers' authority; action of teachers may be subject to review by the trustees; trustees may expel any pupil whose conduct may be found detrimental to the progress of the school.
- 97½. Teachers exempt from certain duties.
98. Teachers daily and term register and monthly reports; what term register to contain.
99. Method of paying teachers.
100. Term register and report of enumeration to be returned at the close of term to the secretary of the board; secretary's duty if found to be correct; if found correct teacher to be paid balance of salary.
101. Teachers to take enumeration of youth in his district; when such enumeration to be taken.
102. Enumeration shall be taken and reported in separate classes; how to be reported; report of enumeration shall be verified by person making same; report to be delivered to secretary of board with the term report of the school; when to be delivered; if not taken and delivered within the time required, what then.
103. Secretary to have enumeration taken if not received by time given; shall employ competent person to take and report same; compensation, how paid.
104. Record of enumeration; duty of secretary of board, duty of county superintendent.
105. County institutes to be held in
- Institutes.*
- SEC.** each county annually; when and how held; shall continue for one week of five days.
106. Every person employed as a teacher shall be required to attend, how paid; duty of county superintendent.
107. Instructors; how appointed; duty of county superintendent to make all arrangements for the institutes, etc.
108. Compensation of instructors, how paid; not to exceed one hundred dollars for any one institute.
109. Each teacher to pay enrollment fee; what fee to be paid; what part of fees to be paid into state treasury to the credit of the general school fund; account of fees expended for the institute to be read and approved by the institute before adjournment.
110. Duty of county superintendents at the close of the institute.
111. District institutes; teachers who shall attend shall have credit for one day's pay.
112. Reading circle; duty of state superintendent, as to such.
- County Superintendent.*
113. County superintendent to be elected; when elected and term of office; duty of county superintendent after receiving notice of election.
114. In case of tie for office of county superintendent; how determined.
115. County superintendent within sixty days after his election must qualify and take oath of office; must give bond; duty of county clerk.
116. Vacancy in office of county superintendent; how filled.
117. Qualification of county superintendent.
118. Compensation.
119. County superintendent to visit schools of his county; to make report to state superintendent; what report to contain; what deduction to be made for failure to visit schools.
120. Compensation, how paid; when the payment of the fourth quarter to be made; deduction to be made for failure to make report to the state superintendent; duty of auditor.
121. Must visit each school in his county at least once in each school year.
122. To examine buildings, equipment, etc.; shall report to the proper board of education all cases of incompetency, etc.; report to state superintendent all cases of incompetency, profanity, etc. on part of teachers.
123. Shall receive and revise reports made to him by secretary of boards of education; to make report to state superintendent; when report to be made and what to contain.
- State Superintendent.*
124. When to be elected; term of office; eligibility; compensation; ex-

- Sec. peuses; residence; to provide a seal for his office; copies of acts and decisions as evidence; signing requisitions.
126. Shall be charged with the supervision of all county and city superintendents of schools; shall see that the school system shall be carried into effect; shall cause to be published copies of this chapter and such other forms, etc. as he may deem necessary, to be distributed to persons entitled to receive them.
127. To make report to the governor, when report to be made; what to contain.
128. To give his interpretation of meaning of any part of the school law; to stand until overruled by circuit court, etc.
129. Prepare and publish list of books suitable for school libraries.
130. State board of education; of whom composed; to be appointed by the state superintendent; one to be appointed from each congressional district; when to be appointed; term of office; when to meet.
131. Duties of state board of education, to prescribe and publish the branches in which applicants for primary and high school teachers' certificates shall be examined; may assist the state superintendent in the preparation of questions for the several examinations provided for by law; compensation and how paid.
- 131½. State board of education to hold at least one examination each year in each congressional district, for the purpose of granting professional certificates; three members to constitute quorum; may issue two classes of certificates; duration of certificates; how certificates may be renewed.
132. How certificates may be issued to graduates of the West Virginia university, state normal school and its branches.
133. How certificates may be issued to teachers coming from other states; proviso governing; board shall keep record of its proceedings; must report to state superintendent, when.
134. State superintendent to countersign all certificates; professional certificates to supersede all other examinations of the person holding them; to be valid in all school districts in the state, except when; applicant for certificate to pay fee of five dollars; proviso relating to certificates issued prior to the passage of this act.
135. Compensation of state board of education; how paid.
136. Report to be made by the state board at the end of each school year; what to show.
- Sheriffs.*
137. Sheriff to collect all school money; must give an additional bond, amount of bond.
- SEC.
138. Must keep separate accounts with the board of education of the various districts; how he may pay orders.
139. When annual settlement with the board of education to be made; what money he shall be charged with in this settlement.
140. Payments in excess; what he shall be charged with in this settlement; if he pays out more money in any one year than has been levied and not collected he shall have no credit for such excess.
141. Method of making settlements with the board of education; duty of secretary of board as to settlements with the sheriff.
142. Sheriff's settlement with the county clerk; when to be made; to make itemized statement, what statement to show; settlement to be made a matter of record by the clerk of the county.
143. When settlement is made and found correct, as required in certain sections of this act, it is to be recorded; proviso concerning corrections in settlements.
144. Sheriff's commissions.
145. If sheriff fails to account for and pay over all money as is required by law, judgment may be rendered against him and his sureties; if he fail to pay any proper order issued by the board of education, what then.
146. Failure to make settlement; he shall forfeit fifty dollars for each term of court that passes without settlement; shall be charged twelve per cent interest on all school money in his hands at time of such default in settlement.
147. Action against; duty of prosecuting attorney.
148. Failure of board of education to settle with sheriffs; each member failing or refusing, guilty of a misdemeanor; penalty.
149. Retiring sheriff to pay over to his successor all balance due, when.
150. Mandamus to enforce judgment.
151. Auditor to make report to governor and state superintendent of free schools; when report to be made and what to contain; governor to lay report before the legislature.
152. Board of school fund; of whom composed; governor to be president, auditor to be secretary; meetings to be held in office of the auditor; records to be kept of all proceedings; quorum.
153. Meetings of board, when held.
154. Collection; payment to treasurer; duty of attorney general.
155. Agents may be appointed by board to collect debts, etc.; agents to give bond; other duties of agents; compensation.
156. No school teacher or officer to act as agent for any publisher, author, etc.
157. Misdemeanor for violating section

- SEC. one hundred and fifty-six of this chapter; penalty.
158. No school officer to be interested in any contract for building, etc.; officer violating provision of this section shall be guilty of misdemeanor; penalty.
159. Penalties not otherwise provided.
160. Special elections provided for in this chapter, how held.
161. Definition of words used in this chapter.
162. Board of education may purchase United States flags; and may require flags to be displayed over school houses when school is in session.
163. Board of education may appoint district superintendent, when; his powers and duties; principal of any graded school may be appointed; compensation; to make report required by state superintendent.
164. Board may take charge of school so supervised and appoint teachers and provide the time of beginning of schools.
165. Text book law now operative to continue until changed by law. *West Virginia university.*
166. Location.
167. Board of regents to consist of nine persons; of whom composed; term of office; appointed by the governor; vacancy, how filled.
168. Board a corporate body; title to property vested in board.
169. Quorum shall consist of a majority; power to transact business.
170. Regents shall adopt rules and regulations; to select a president; to fix salary and term of office of professors, etc.
171. Officers to be appointed by regents.
172. Departments to be established by regents; to prescribe conditions for graduation; to issue diplomas under certain conditions; value of diploma.
173. Cadets: number to be appointed; by whom appointed; when appointment to be made; vacancy in cadetship, how filled; senator or delegate shall not appoint any cadet until notified by president of university or commandant of cadets; cadets to be appointed by the regents; age of cadets; qualification, term of service; how they can re-enlist; number to be appointed from each county and senatorial district.
174. Free tuition to cadets: shall constitute the public guard of the university.
175. Endowment: regents to invest funds derived from sale of United States land warrants.
176. State treasurer to receive grant annually appropriated by act of congress; to keep account of all money received and place it to the credit of the West Virginia university; treasurer to include in his annual report to the governor, statement of his receipts and disbursements under this provision.
- SEC. *State normal school.*
177. Location.
178. Board of regents to be appointed by the governor; when appointed, term of office; who to compose board; vacancy to be filled by the governor; powers and duties of board; teachers, pupils, diploma and academic department.
179. Executive committee; appointment, powers and duties; reports.
181. Branch of state normal school at Fairmont; location; control of by regents of state normal school.
182. Branch of state normal school at West Liberty; location; control of by regents of state normal school.
183. Branch of state normal school at Glenville; location; control of by regents of state normal school.
184. Branch of state normal school at Shepherdstown; location; control of by regents of state normal school.
185. Branch of state normal school at Athens; location; control of by regents of state normal school.
186. Monthly report of state normal school and branches; reports by principals to be made.
187. Payment of salary; how made.
188. Normal training for colored teachers; duty of state superintendent.
189. Preparatory branch of West Virginia university at Montgomery; location; to be known as; its powers, etc.
190. Controlled by regents of state normal school.
191. Powers of board.
192. Title of all ground, building, etc., to be vested in board.
193. Branches to be taught, etc.
194. Teachers to be employed by board; how salary fixed and paid.
195. Tuition to be fixed by faculty of said school.
196. Preparatory branch of West Virginia university at Keyser; location; to be known as; its powers, etc.
197. To be controlled by board of regents; by whom appointed; term of office; when to be appointed; how board to be selected; to be known by what name; powers and duties of board.
198. Title to all grounds, buildings, etc., to be vested in board.
- 198½. Branches to be taught.
199. Teachers to be employed and their salaries fixed by board; how salary to be paid.
200. Tuition to be fixed by board of regents.
201. How income derived from tuition, etc. to be applied.
202. Board of regents to have power to appoint officers; officers to be appointed; to appoint committee of three to have care, control, etc., of school; who to be appointed.
203. Compensation of board of regents. *West Virginia colored institute.*

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204. An act of congress; preamble; establishment; property.
205. Acceptance of grant by the legislature of West Virginia.
206. Board of regents to consist of state superintendent and six other persons; how appointed; when to be appointed; vacancy; how filled; powers of board; gifts, etc.
207. Department of education; material, apparatus, etc.
208. Rules and regulations; expenses.
209. State treasurer to receive grants; to keep exact account of money received and to proportion same; how sums paid out; what treasurer to include in biennial report to governor.
210. Site and buildings; duty of board of the school fund.
Bluefield colored institute.
211. Location; by what name to be known.
212. Board of regents; consisting of whom; board to be a corporate body; under what name; when regents to be appointed, and by whom; vacancy, how filled; compensation.
213. Powers of board of regents.
214. Property vested in board; how used and controlled.
215. Branches to be taught; provisions of code applicable.
216. Board to employ and fix salaries of teachers; how paid.
217. Tuition for students desiring to take other branches of studies than those designated.
218. How money derived from tuition to be used.
- West Virginia school for deaf and blind.*
219. By what name known, and where located.
220. Board of regents; number and by whom appointed.
221. Board of regents classified; when each class appointed; term of office; vacancy; how appointments classified.
222. Board to appoint president and secretary; president and secretary required to sign requisition for money from state; meetings, when and where; extra meetings, quorum.
223. Duty of principal.
224. Board to appoint teachers, etc., and provide furniture, etc.
225. Board may select steward; residence of principal etc.; salaries.
226. Physician, his duties and salary.
227. Principal and steward to give bond.
228. Board of regents to provide rules, etc.; reports required from principal, etc.; to report to governor; what report to show; end of fiscal year.
229. Board may provide accommodations for officers, etc., and for deaf and blind youth, who apply for admission; youth admitted must be of sound mind, etc.
230. Youth between what ages admitted; how; duty of principal as to record of names of applicants, etc.
231. Pupils admitted without charge for

- SEC.
- board and tuition; when not otherwise provided with clothing, institution to furnish; account to be made out by principal; how account collected; duty of auditor if the account is not paid.
232. How long pupils shall continue in school; how room for new applicants made.
233. Board of regents to prescribe course of instruction.
234. Assessors required to keep record of deaf and blind persons in their respective districts; what register to show; registration to be forwarded to auditor; principal of school to correspond with all deaf and blind persons of suitable age and condition, with a view to their admission to said school.
235. Compensation of assessors for extra duties imposed.
West Virginia reform school.
236. Where to remain and by what name known.
237. Board of regents; of how many persons to consist; by whom appointed; by what name known; appointments classified; regents now in office; term of office; vacancy.
238. President of board; quorum; business that may be transacted with less than quorum.
239. Board of regents shall make rules, etc., governing school; shall appoint officers, etc., as they may deem necessary.
240. Board to make annual report to governor; what report to show.
241. Who may be committed and for what manner of commitment.
242. Judge of court where minor is convicted of crime may commit him. In his discretion to reform school; boys convicted in United States courts may be committed to school, under what regulations; due notice to be given to superintendent and answer received before minor transferred to reform school.
243. Justice of peace committing minor to reform school to annex to commitment, names and residence of different witnesses, etc.
244. The proceedings before justices for commitment of minors to reform school; the justice shall appoint some disinterested person guardian *ad litem* of minor; rights of guardians; to be tried by jury; appeals.
245. White and colored inmates to be kept separate.
246. Board of regents to have power to bind out male children, with consent of such children as apprentices during their minority; to whom and for what purpose; provision of code applicable.
247. Boy sent to reform school shall remain until twenty-one years of age, unless, etc.; transfer of inmates to or from penitentiary; remission of penalty.

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| <p>Sec.
248. Penalty for enticing or attempting to entice any boy away from reform school; committing other offenses against inmates; duty of sheriff, etc., as to arrest of any boy who shall escape from said school.</p> <p>249. Compensation of justices, jurors, etc., in proceedings for commitment, etc.; mileage, etc., allowed officer taking boy to reform school; to be paid out of the county treasury.</p> <p>250. Amount to be paid into state treasury each year from every county on account of each minor from the county in said school; parents or guardian to reimburse county under certain conditions.</p> <p>251. List of inmates; charging maintenance of inmates to counties; superintendent or principal to certify list to auditor; duty of auditor as to such lists.</p> <p>252. Statements; auditor to certify list to county court; what list to show; duty of county court; if amount due from any court is not paid within a reasonable time, what then.
<i>Industrial home for girls.</i></p> <p>253. Location.</p> <p>254. To be under control of board of regents; term of office; of whom board to be composed; vacancy, how filled; board a corporation; name; to have a common seal; authority of board.</p> | <p>SEC.
255. Board to choose one of their number as president; quorum.</p> <p>256. By-laws, ordinances, etc.; appointment of officers, agents and servants; rules for the transportation of minors.</p> <p>257. Board to make annual report to the governor; what report to show.</p> <p>258. Pupils; for what cause sent; length of term.</p> <p>259. Commitment; annexation of names; residence of witnesses and substance of testimony; persons liable to commitment.</p> <p>260. Guardian <i>ad litem</i>; trial by jury; if no jury be demanded, what then.</p> <p>261. Separation of white and colored inmates.</p> <p>262. Apprenticing inmates; powers of board as to such inmates; for what purpose bound out; to be bound out to those whose character is above reproach; what indentures by which any girl may be bound out to state; no girl to be bound out unless, etc.</p> <p>263. Penalty for cruelty or inhuman treatment by master of such apprentices.</p> <p>264. Removal of apprentices; escapes; penalties.</p> <p>265. Desertions by apprentices; summary proceedings on complaint between master and apprentices.</p> <p>266. Conflicting acts repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That chapter forty-five of the code be amended and reenacted so as to read as follows:

CHAPTER XVI.

OF EDUCATION.

School year.

Sec. 1. The school year shall begin on the first day of July and end on the thirtieth day of June, and all reports, accounts and settlements respecting the free schools shall be made with reference to the school year.

School districts.

Sec. 2. Every magisterial district in each of the counties of the state shall be a school district, which shall be divided into such num-

ber 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.

BOARD OF EDUCATION.

How constituted—Election—Term.

Sec. 3. In each district there shall be a board of education consisting of a president and two school commissioners elected by the voters thereof. One commissioner shall be elected at the general election held on the Tuesday after the first Monday in November, nineteen hundred and eight, and one commissioner every two years thereafter; and the president at the general election held in nineteen hundred and ten, and every four years thereafter. Their term of office shall commence on the first day of July next after their election, and they shall each continue in office for four years, and until their successors are elected or appointed and qualified according to law.

Tie in vote.

Sec. 4. 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.

Vacancy.

Sec. 5. Any member of any board of education who shall be employed to teach in his district shall vacate his office.

Vacancies in the board of education shall be filled by the county superintendent of free schools, until the next general election.

Oath of members.

Sec. 6. Every president and commissioner of the board of education elected within this state shall within ten days after his election has been duly declared, qualify as such by taking and subscribing before some one duly authorized to administer oaths within his county the oath of office prescribed by section five of article four of the constitution, which oath shall be filed with the secretary of the board of education of his district.

A corporation.

Sec. 7. The board of education of each district, and independent school district shall be a corporation by the name of "The board of education of the district or independent district of _____ in the county of _____," and as such may sue and be sued, plead and be impleaded, contract and be contracted with; and shall succeed and be substituted to all the rights of the former 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, and shall also be liable in its corporate capacity for all claims legally existing against the board of education of which it is successor.

Service of process.

Sec. 8. Process and notice may be served on said corporation by delivering a copy thereof to the secretary or any member of the board. 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 estate and personal property of their district, and the title of all such lands as have been in the actual possession of any board of education for the last five years, and are still in such possession and not otherwise claimed, is hereby vested in the board of education of the district in which such lands are situated, to be held and used for free school purposes, and none other. The board of education shall hereafter, whenever possible, obtain a general warranty deed for all school sites.

Property exempt from execution.

Sec. 9. 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 free from lien or distress for taxes or county levies.

Property to be inspected—May be sold.

Sec. 10. The president of the board of education of every district

and independent district shall at least once a year, examine all the school houses now constructed or in process of construction and all school sites in the district and report the condition of the same to the board of education; and such as are in the judgment of the board, properly located and are suitable or can with reasonable expense be rendered so, shall be retained, and the remainder with the consent of the county superintendent, as to districts, shall be sold at public auction to the highest responsible bidder, by the board of education on proper legal notice and on such terms of sale as the board may order, and the proceeds shall be added to the building fund.

Have general control of schools—May change sub-district lines.

Section 11. The board of education shall have general control and supervision of the schools and school interests of their districts, except as herein otherwise provided; and they shall determine the number and location of the schools to be taught; establish graded schools, when necessary, and, as hereinafter provided, establish high schools, if necessary, change the boundaries of their sub-districts, and increase and diminish the number thereof, having due regard to the school houses already built, or sites procured, assigning, if practicable to each sub-district, not less than forty youth between the age of six and twenty-one years; and shall define and enter of record in their minute book the boundaries of the several districts and sub-districts.

But every village consisting of fifty inhabitants or more shall be included in one sub-district, and if such village is divided by district or county lines the said village shall be included in the sub-district under the supervision of the board of education of the district in which the larger division of its territory is attached.

Appeal to county superintendent.

Sec. 12. Any person aggrieved by any action of the board of education, in changing the boundaries of a sub-district, or in increasing or diminishing the number of the sub-districts in his district under the preceding section, may appeal therefrom to the county superintendent of schools.

Every such person shall present to the county superintendent his petition signed by himself and at least five others residents of the

sub-district, stating the action of the board complained of and the grounds of appeal; and the county superintendent shall thereupon fix a time and place for the hearing of the appeal, and cause notice thereof to be served upon the secretary or any member of the board of education, at least five days before the hearing.

If upon hearing the proofs and allegations of the parties the county superintendent be of the opinion that the action of the board complained of was improper he shall reverse or correct it; otherwise the said action shall be affirmed, but any person aggrieved by any action of the county superintendent upon said appeal may appeal to the circuit court of the county.

Must provide sites and buildings.

Sec. 13. 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 pupils thereof, and improve such grounds and provide such furniture, fixtures, and apparatus for the said school houses, as the comfort, health, cleanliness and convenience of the pupils may require, and keep such grounds, school houses, furniture, fixtures, and apparatus in good order and repair, but no board of education may purchase school apparatus of any kind without the advice and consent of the county superintendent first had in writing.

Approval of location and plans.

Sec. 14. In the construction of school houses the board of education of each district shall have regard to economy, convenience and durability of structure and the health and comfort of pupils, and no such school house shall be constructed until the location and plan thereof have first been approved by the county superintendent, and in the event the board of education cannot agree upon plans or location, the county superintendent shall select the plans and location for such house.

May condemn land.

Sec. 15. If the owner or owners refuse to sell any land selected by a board of education or a county superintendent as a location for a school house and necessary buildings, or for enlarging a school

house lot, or demand an unreasonable price therefor, or if the owner is *non compos mentis*, a *femme converté*, a minor, or a non-resident, the board of education may petition the circuit court to have such land condemned and such proceeding shall thereupon be had in the name of such board for the condemnation thereof, as provided for in chapter forty-two of the code: *provided*, that the land so taken shall not exceed in quantity two acres.

Schools to be taught.

Sec. 16. The board of education shall cause to be taught in every sub-district of their district by a teacher or teachers of temperate habits and good morals a sufficient number of free 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, or teachers, as hereinafter authorized, for their sub-district, upon complaint thereof by any three patrons of said school it shall be the duty of the board of education to do so.

May discontinue.

Sec. 17. If at the end of any month of school the average daily attendance for that month has been less than thirty-five per cent. of the whole number of pupils enumerated in that sub-district, the board of education may dismiss the teacher and discontinue the school, and the teacher shall not be entitled to or receive any further salary.

May provide buildings jointly.

Sec. 18. Boards of education in adjoining districts may jointly provide for the construction of school houses and the teaching of school therein for the accommodation of pupils in adjoining portions of districts whether in the same or different counties who may be better accommodated by such union of schools. The title of such houses shall be vested in the board of education of the district in which the houses are located, and the terms of the agreement shall be reduced to writing and entered of record in the minutes of the respective boards. Such school houses shall be provided with furniture, fixtures and such other apparatus as are supplied to school

houses generally, and an equitable amount of the cost thereof shall be assessed to each district interested, by the respective boards of education.

Bond required.

Sec. 19. Boards of education shall in all cases require persons entering into contract for the building or repairing of school houses where the contract price exceeds fifty dollars, to execute bond, with approved security in double the amount of the contract price.

Vote on levy.

Sec. 20. The ballots used at the election for county superintendent hereinafter provided for, shall have printed at the bottom of each ticket, in separate lines, "For school levy," and "Against school levy," and the voter in preparing his ballot shall, if he desires to vote for school levy, erase from the ticket which he intends to vote the words "Against school levy," or if he desires to vote against school levy, he shall erase therefrom the words "For school levy."

Levy.

Sec. 21. If a majority of the ballots cast upon the question of laying a levy in the district or independent district have written or printed thereon "For school levy," it shall be the duty of the board of education of such district or independent district at a meeting to be held on the second Tuesday in August, to ascertain the condition of the fiscal affairs of the district, and make up an itemized statement thereof, which shall set forth in detail:

(a) The separate amounts due the building fund and teachers' fund of the district, and the amounts that will become due thereto and collectable during the current fiscal year, from every source, including the amount to be received from the general school fund, but excepting the amount that will be produced by the levy of taxes to be made for the year;

(b) The debts and demands owed by the district, and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded or bonded or otherwise, distinguishing between those payable out of the building fund and those payable out of the teachers' fund;

(c) All other expenditures, under the several heads of expenditures, to be made and payable out of the funds of the district for the current fiscal year, distinguishing between those payable out of the building fund and those payable out of the teachers' fund, and including the cost of collection of taxes and other claims, with proper allowances for delinquent taxes and contingencies. Said statement shall also set forth the separate amounts necessary to be raised for each of said funds by the levy of taxes for the current fiscal year, and the proposed rates of levy of taxes, in cents on each one hundred dollars of assessed value, on the taxable property of the district for each of said funds; and also the aggregate of the taxable property of the district, stating separately the assessed value of personal property, of real estate, and of the property assessed by the board of public works. A copy of such statement duly certified by the secretary of the board, shall be published twice, at least one week intervening between the publications, in two newspapers of general circulation published in the county, and of opposite politics. If there be but one newspaper published in the county, the publication shall be made therein and shall be posted in each post office in the district for at least eight days. The session shall then stand adjourned until the fourth Tuesday in August, at which time it shall convene; and it shall then be the duty of said board to hear and consider any objections made orally or in writing, by the prosecuting attorney, by the state tax commissioner or his representative, or by any taxpayer of the county, to said estimate and proposed levy, or any item thereof. It shall be the duty of the board to enter an order of record showing the objections so made, setting forth the reasons and grounds for such objections. But the failure of any officer or taxpayer to offer objection as herein provided shall not preclude him from pursuing any legal remedy necessary to correct any levy laid by said board. After said objections have been made and heard, the board shall thereupon reconsider the proposed original estimate and proposed rate of levy; and if the objections thereto or any part thereof appear to be well taken, the board shall correct the same accordingly and it shall thereupon be approved, and when approved shall, with the order approving it, be entered by the secretary in the record book of proceedings, the board shall thereupon levy as many cents on each one hundred dollars of the assessed valuation of the property of the district, according to the last assessment thereof, as will produce the amount shown by the said statement necessary to be raised for the building

fund, and levy in like manner the amount necessary, after deducting the sum receivable from the general school fund, for the teachers' fund to continue the schools in such district for the term of six months or for a longer term where such may be established by or according to law: *provided, first*, that the levy for the building fund shall not exceed fifteen cents on each one hundred dollars of said valuation for the year nineteen hundred and eight, and shall not exceed twelve and one-half cents after that year; nor exceed twenty-five cents on each hundred dollars of said valuation for the teachers' fund: *provided, second*, that if such board of education in a city or independent school district of less than ten thousand population maintains a high school in such district, or maintains a high school in connection with one or more other districts, the board may levy for the support of said high school in any one year not to exceed ten cents on each one hundred dollars of said valuation: *provided, third*, that school districts and independent districts having outstanding bonds may increase the levies aforesaid by any amount sufficient to pay the interest on such bonds and the principal thereof in the time provided in the issue of such bonds, but the proceeds of such additional levy may be used for that purpose and no other: *provided, fourth*, that if said maximum levy of twenty-five cents for the teachers' fund shall not produce sufficient money, with the other sources of revenue, including any balance to the credit thereof in the hands of the treasurer and the amount of the general school fund apportioned to the district, to pay the salaries of the necessary number of teachers, at the minimum rate of salary fixed by law, for the schools of the district for the term of six months, it shall be the duty of the state superintendent of free schools to deposit with the treasurer of the board of education, to the credit of the teachers' fund, a sufficient amount to make up such deficiency; and the said state superintendent is authorized to withhold from the distribution made on the per capita basis a sufficient amount of the general school fund, not exceeding in any one year fifty thousand dollars, for this purpose. If it shall appear to said state superintendent that a sufficient number of teachers of the proper grade for the schools of such district cannot be procured at the minimum rate of salary, owing to the payment of larger salaries in neighboring districts or elsewhere in the state he may fix the salaries of such teachers above the minimum, but not above the salaries paid teachers of like grades in neighboring districts. Any balance of the general school fund with-

held from the per capita distribution for such schools, as aforesaid, in any year, shall revert to said fund at the close of the year.

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Additional levy.

Sec. 22. If any board of education be of the opinion that the maximum rate of levy of taxes hereinbefore named will not produce sufficient funds for the current fiscal year to cover the expenditures for the year in its school district, it may enter an order on its record book of proceedings setting forth the purposes for which additional funds will be needed, the amount thereof for each purpose, and the total thereof, the aggregate amount of the taxable property on which it is authorized to levy taxes and the rate of levy in cents on each one hundred dollars of valuation of such property necessary to produce the additional amount estimated to be needed; and in the same order submit to the voters of the school district, at an election therefor, the question of such additional levy. If a majority of the votes cast on the question at such election be in favor of such additional levy, the board shall have authority to make such additional levy, but the same shall not exceed twenty cents on each one hundred dollars of valuation of the taxable property in the school districts, according to the last assessment thereof: *provided*, that if any school or independent school district create in the future a bonded indebtedness according to law, and the board of education be of opinion that the maximum rate of levy provided in section twenty-one will not produce sufficient funds to pay the interest on such bonded indebtedness and provide a sinking fund for the discharge of the principal in the number of years authorized by the issue of the bonds, it may enter an order on its record book of proceedings setting forth the maximum rate of levy necessary in each year to pay the interest and to provide such sinking fund; and in the same order submit to the voters of the district at the election held for the purpose of authorizing the bond issue, the question of such levy. At such election there shall be printed on the ticket a brief statement of the levy herein provided for, such as, "To authorize a maximum special bond levy of _____ cents according to the order of _____ entered on the _____ day of _____ to pay the interest and provide a sinking fund for the discharge of the bonds now being voted upon." And directly underneath in two separate lines shall be printed the words, "For the levy" and "Against the levy." In all respects the provisions of the laws concerning general elections, and elections

under the provisions of this act, shall apply to such election as far as they are practicable. If a majority of the votes cast at such election be in favor of such levy, the board shall have authority to lay such maximum levy, and may continue to lay the same, or such portion thereof as is necessary, from year to year, without an additional vote, until such bonded indebtedness is paid off and discharged; but the funds arising from such levy shall be used for the purpose herein designated and no other.

How elections herein authorized held.

Sec. 23. The election authorized in section twenty-two may be held at any general election, or at any special election held for any other purpose, as well as held separately. Notice thereof, however, shall be given by the publication of the order of the board calling the same, in two newspapers of general circulation in the territory in which the election is held, and of opposite politics, at least once in each week for two successive weeks before the election, and printed copies of said order shall be posted at each place of voting at least ten days before the election. If there be only one such newspaper published in the county, the publication shall be made therein. All the provisions of the laws concerning general elections shall apply to such election as far as they are practicable, except as follows: A separate ticket shall be used at such election held in connection with any other election. On such ticket shall be printed a brief statement of the question submitted, such as "Special election to authorize _____ levy of _____ cents, according to the order of the _____ day of _____;" and directly underneath, in two separate lines, shall be printed the words "For the levy," and "Against the levy." Those favoring the levy shall erase the words "Against the levy" and those opposed thereto shall erase the words "For the levy." If a majority of those voting on the question be in favor of the levy the said board shall be authorized to lay the same; but if a majority of the votes cast on the question be not in favor of such levy, it shall not be laid. The secretary of the board shall procure and furnish to the election commissioners at each place of voting the tickets, poll books, tally sheets, and other things needed.

Special debt levy—Provisions as to certain funds.

Sec. 24. If any school district or any independent school district

have outstanding unpaid orders on the treasury thereof, or owe other floating indebtedness, which orders were issued or which indebtedness was incurred previous to the first day of January in the year nineteen hundred and eight the amount whereof is so considerable that it is impracticable to discharge the same out of the proceeds of the regular levy, and the board of education deem it inadvisable to submit to the voters of the district the question of an additional levy as provided in section twenty-two, the board may lay a levy in addition to said regular levy to be called "Special debt levy," not exceeding ten cents on each hundred dollars of the valuation of the taxable property of the district according to the last assessment of such property, and continue such levy for as many years as may be necessary to pay off such debt, but not longer. The net amount produced by any such levy, or by any additional levy authorized by section twenty-two, shall not be used for any other purpose, as to such special debt levy than for the payment of such debt, or as to such additional levy for the purpose or purposes named in the order submitting the question to the voters. The treasurer of each of such funds shall keep an accurate account of the same separately from other funds. If after paying off such debts or effecting the object of said additional levy or of said special levy, any balance remains of any said funds the same shall, first revert to the sinking fund of the district or independent school district, or secondly, if there be no such sinking fund, it shall revert to the teachers' fund.

Certain acts prohibited—Penalties.

Sec. 25. It shall be unlawful for any board of education to expend any money or to incur any obligation or indebtedness which such tribunal is not expressly authorized by law to expend or to incur. Nor shall any such tribunal make any contract, express or implied, the performance of which, in whole or in part, would involve the expenditure of money in excess of funds legally at the disposal of such tribunal, issue or authorize to be issued any certificate, order or other evidence of indebtedness which cannot be paid out of the levy for the current year or out of the fund against which it is issued. Nor shall any such tribunal attempt to lay any such levy the rate whereof shall exceed the rate specified by this act.

Any member of any such tribunal, or any officer or person, who in violation of any of the provisions of this act shall expend any money or incur any debt or obligation, make or participate in the making

of any such contract, or be a party thereto in any official capacity, or issue or cause to be issued any such certificate, order or other evidence of indebtedness, or lay or cause to be laid any levy or levies, shall be personally liable therefor, both jointly and severally, and an action may be maintained therefor by the state, or by any county, municipal corporation, district, or person prejudiced thereby, in any court of competent jurisdiction; and any such member, officer or person shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars or be confined in jail not more than one year, or both fined and imprisoned; and in addition thereto shall forfeit his office. Whenever any court of competent jurisdiction by *mandamus*, injunction or other judicial proceeding shall determine that any officer or person has wilfully violated any of the provisions of this section, it shall enter an order declaring the office or such officer or person forfeited.

Duty of state tax commissioner and attorney general.

Sec. 26. The state tax commissioner shall prepare forms and instructions for making up the statement named in section twenty-one of the condition of the fiscal affairs, which forms and instructions shall be followed so far as they are consistent with law. The attorney general shall prepare forms and instructions for the holding of any election provided by this act, which forms and instructions shall be followed.

Additional term—Special election.

Sec. 27. The board of education of any district or independent district may at their first meeting held on the first Monday in July extend the term of six months school herein provided for, or they shall upon the petition of fifty taxpayers of their district, submit the question of having more than six months school to the voters of their district at any general election or at a special election to be held in such district at such time as said petitioners may designate. If such question is to be submitted at a general election the board of education shall notify the ballot commissioners who shall thereupon have printed on the ballots used at such general election "For _____ months school" and "Against _____ months school", and if at a special election, the secretary of the board of education shall post notices of such special election at all the voting places in the district

for at least twenty days before the day on which said election is to be held. The ballots used at said election shall have written or printed thereon the words "For _____ months school," and "Against _____ months school." If a majority of the votes cast at any such election shall be in favor of more than six months school, or if the board of education shall determine, without such election, to have more than six months school they shall provide for such additional months of school for their district, for the ensuing two years.

Teachers' salaries.

Sec. 27½. The boards of education of the several districts shall at their first meeting for each school year on the first Monday in July determine 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 as follows: Teachers having certificates of the grade of number one, shall be paid not less than forty dollars per month; those holding certificates of the grade of number two, not less than thirty-five dollars per month; and those holding certificates of the grade of number three, not less than thirty dollars per month. And the trustees of the several sub-districts shall in no case transcend or diminish the salaries so fixed in any contract they may make with teachers.

Graded schools.

Sec. 28. In any district in which there is a town, village or densely populated neighborhood having two or more schools in the same building, the board of education may establish a graded school therein and in addition to the graded school herein provided for, in a town or village having four or more schools in the same building, a high school may be established, which shall be open to all pupils of sufficient attainment in the magisterial district in which the school is located: *provided*, the levy necessary to support said school and all other schools of the district shall not exceed twenty-five cents on the one hundred dollars valuation for the teachers' fund, and fifteen cents on the one hundred dollars valuation for building fund. The board of education shall have charge of such graded and high schools. If

within ten days after the board of education has laid the levies hereinbefore required, a majority of the taxpayers of the sub-districts in which any such graded school is located, file with the secretary of the board of education their petition praying for an extension of the term of such graded school for a given number of months for the ensuing year, said board of education shall extend the term of said graded school for the number of months prayed for, and shall provide for such additional expense necessarily incurred in carrying on said school for such extended term by special levy not exceeding the rate of five cents on the hundred dollars valuation of the taxable property of such sub-district, and the proceeds of such levy shall be known as sub-district teachers' fund, and shall be collected, reported and accounted for as provided for the proceeds of other school levies.

Additional salary.

Sec. 29. The board of education of any district or independent district may pay the teachers of their district such salaries in addition to the minimum salary fixed by law, as hereinbefore provided, as they may see proper, having regard to the grade of the teachers' certificate and where they establish a high or graded school employing two or more teachers the board may fix a higher grade of salary to be paid the teachers of any such high or graded school, and grade their salaries according to the conditions existing in such schools.

District high school.

Sec. 30. If the board of education of any district deem it expedient to establish a high school in such district they shall submit the question to the voters of the district on the third Tuesday in May 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, 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 high school shall be submitted to the voters of the district at the election specified in the notice which they shall cause to be posted for four weeks before the election in at least three of the most public places in the district.

The ballots used in voting on the question shall have written or printed thereon the words "For district high school," and "Against district high school." If it appear by the result of said election that not less than three-fifths of the voters who voted on the question are in favor of authorizing the establishment of said school the board of education shall then proceed to obtain the site, provide proper buildings, fixtures and improvements, procure necessary furniture, books and apparatus and employ necessary teachers therefor.

High school to be discontinued.

Sec. 31. Any district high school shall be discontinued at the end of any year upon the petition in writing of at least seventy-five per cent. of the taxpayers of the district.

Meetings—Quorum.

Sec. 32. The boards of education of the several districts may hold their meetings on the first Monday of each month during the school term and at such other times as they may determine, but no business shall be transacted at a special meeting except such as may be designated in the call therefor of which all the members have notice. A quorum of the board shall consist of a majority of the members thereof, and they shall do no official business except when assembled as a board.

Compensation.

Sec. 33. The members of the board of education of each district shall each receive as compensation for their services the sum of two dollars per day to be paid out of the building fund of the district on the order of the county superintendent: *provided* that no commissioner shall receive pay for more than ten days, and no president for more than fifteen days in one year, one day of which shall be spent by each of them in attending a county teachers' institute held in his county.

Kindergartens.

Sec. 34. The board of education of any district or independent district in which there is a city, town or village, of one thousand population or more, may establish in connection with the schools of

such district a kindergarten, to which may be admitted children between the ages of four and six years, under such regulations as may be prescribed by law for the admission of youth to the other schools of such district.

No person may be employed as a teacher in such kindergarten unless she holds a diploma from a kindergarten college, or, in addition to holding such a certificate as is required of other persons employed as teachers in the schools of this state, be duly examined in kindergarten methods and theories, in such manner as the board of education may prescribe.

Free text-books.

Sec. 35. The board of education of any district or independent district may purchase the necessary text-books prescribed to be used in the free schools under their control and furnish the same free to the pupils of said schools. If the board of education determines to purchase and furnish such free text-books, they shall enter an order to that effect upon the records, and shall cause said books to be purchased and kept in charge by the secretary and furnished to the pupils of the free schools of their district as hereinafter provided.

Teachers to distribute.

Sec. 36. At the commencement of every term of the free schools in such district the secretary shall deliver to the teachers thereof such books as may be necessary for the use of the several pupils therein for the ensuing term of school and take from them receipts showing the number and kind of books so received. It shall be the duty of such teachers to take charge of such books and to distribute them among the pupils of their schools as needed, and said teachers shall have and exercise general control over said books during such term and at the close thereof and before they receive an order for salary for the last month of such term shall collect and gather together all the books so used during the term and deliver them to the secretary of the board of education: *provided*, that if any of the books delivered to any pupil of such district shall be unnecessarily injured or destroyed they shall be replaced by the pupil who injured or destroyed them. All such books shall be purchased by the board of education directly from the publisher, contracted with as prescribed by law and at the net wholesale price.

Books for library.

Sec. 37. The board of education of any district may purchase books for school libraries. But not more than ten dollars shall be expended in any year for this purpose for any school, and books so purchased must be selected from the list and in the order, and of the edition recommended by the state superintendent of free schools.

Librarian.

Sec. 38. The trustees of any sub-district where there is a school library containing two hundred volumes may upon the petition in writing of at least half of the taxpayers of the sub-district employ a responsible person to care for such school library during the time school is not in session and to open the said library for part of one day in each week at which time the patrons and pupils of such sub-district may draw out books under such rules and regulations for the care and return thereof as the said trustees may prescribe. For his services the said librarian shall be paid five dollars per year, out of the building fund, by order of the board of education.

Bonds—Election.

Sec. 39. In any district or independent district wherein there is a town or city with an enumeration of youth of school age of three hundred or over, the board of education may borrow money and issue bonds therefor for the purpose of building, completing, enlarging, repairing or furnishing school houses, in such town or city. Said bonds shall be payable in not less than ten or more than thirty-four years from their date, and the rate of interest thereon shall not exceed six per centum per annum: *provided*, that no debt shall be contracted under this section which shall, including existing indebtedness, in the aggregate, exceed two and one-half per centum on the value of the taxable property in said district, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, nor without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on said debt, and the principal thereof, within and not exceeding thirty-four years: and, *provided, further*, that no debt shall be contracted under this section unless all questions connected with the same have been first submitted to a vote of the people of said district

at a special or general election, and have received three-fifths of all the votes cast for and against the same.

The general school fund.

Sec. 40. The proceeds of the capitation tax, the income of the school fund, the net proceeds of all forfeitures and fines which accrue to the state during the previous year and all money arising from the sources named in section four of article twelve of the constitution heretofore going to the "school fund", but as now amended going to "the general school fund", and all funds from any sources paid into the treasury for school purposes and not otherwise appropriated, shall be set apart for the support of free schools, as a separate fund to be called "the general school fund" and shall be annually apportioned and distributed to the several counties of the state in proportion to the number of youth of school age according to the latest enumeration for school purposes, to be applied to the support of free schools throughout the state, and to no other purpose whatever, except that the auditor shall in ascertaining the amount to be apportioned and distributed to the several counties first deduct the aggregate salary of the state superintendent of free schools, his necessary traveling expenses not to exceed five hundred dollars, the contingent expenses of his office, the salaries of the county superintendents, the supplementary fund provided for in section twenty-one and other expenditures required by law to be paid out of the general school fund: *provided*, that if the amount of the general school fund in any year is less than seven hundred and fifty thousand dollars the board of public works shall transfer thereto from the state fund an amount necessary to make the general school fund at least seven hundred and fifty thousand dollars; and if in the judgment of said board the condition of the state fund will justify it, such transfer may be sufficient to make the general school fund one million dollars.

Auditor to report.

Sec. 41. It shall be the duty of the auditor, on or before the tenth day of June, in each year, to ascertain the amount of the general school fund 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 of said apportionment.

Apportionment of general school fund.

Sec. 42. 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 youth enumerated 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 section twenty-one of this chapter.

Requisition for the general school fund.

Sec. 43. When the board of education has laid the levy for the teachers' fund the county superintendent shall issue his requisition on the auditor, payable to the order of the sheriff of his county, for the amount due, which shall be paid in two equal installments, payable on the fifteenth of September and December, respectively.

Delinquent lists.

Sec. 44. The delinquent lists for the county and district school levies shall be returned and all other proceedings had in relation thereto as provided by law for other delinquent taxes.

SECRETARY.

Duties.

Sec. 45. The board of education at their first meeting, which shall be held on the first Monday in July of each year, shall appoint a secretary who shall not be a member of the board, and who shall, before entering upon the discharge of his duties, take the oath prescribed by law, and 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 reasonable times be open to the inspection of any person interested therein; he shall have the care and custody of all papers belonging to the board, including evidences of title, contracts and obligations, 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 pertaining to the business of the board, and keep such accounts and prepare and certify such reports and writings, as the law may require or the board direct, all of which records, papers, contracts, documents and other property pertaining to his office shall be immediately delivered in proper condition to his successor in office.

Abstract of proceedings.

Sec. 46. The secretary of the board of education of each district shall, within three days after each meeting of the board of education, post an abstract of the proceedings thereof at the front door of the place of meeting, and within ten days after the annual settlement with the sheriff the secretary of the board of education of each district and independent district shall post at the same place an itemized statement, duly sworn to by the president and the secretary of said board, showing all disbursements by said president and secretary by orders on the sheriff, or otherwise, within the school year last preceding, from the teachers' fund, the building fund, and any other fund from which disbursements are made, setting forth the name of the person to whom and the purpose for which each order was issued.

Administer oaths.

Sec. 47. The secretary shall have authority to administer oaths to school officers and to teachers or others reporting enumeration.

Assessor's certificate.

Sec. 48. The assessor shall make out and deliver to the secretary of the board of education of each district and independent district in his county on or before the second Tuesday in August in each year, a certificate showing the aggregate value of all personal property and real estate in such district or independent district, and to the county superintendent of free schools a certificate of the aggregate value of such property in the county, which certificates shall serve as the basis for the school levies for the ensuing year.

Report rate of levy.

Sec. 49. Within three days after the board of education has laid the levy for the building fund and the teachers' fund, it shall be the

duty of the secretary to report the rate thereof to the county superintendent and the proper assessor, and within three days thereafter it shall be the duty of the county superintendent to report the rate of levy for the various funds to the clerk of the county court and the assessor and the rate of levy for all funds, and the total value of real and personal property in each district and independent district to the state superintendent and the auditor; and it shall thereupon be the duty of the proper county officer to extend on the personal property book and on the land book the amount of taxes levied as aforesaid, in separate columns, headed respectively teachers' fund, and building fund, which taxes the sheriff shall collect and account for as required by law.

Penalty.

Sec. 50. Any assessor, clerk of the county court, secretary of a board of education, or county superintendent who fails to perform the duties required of him by sections forty-eight and forty-nine of this chapter, shall be guilty of a misdemeanor and upon conviction thereof be fined twenty dollars.

Report.

Sec. 51. From the reports of trustees, the teachers' registers, the annual settlement with the sheriff, and from such other authentic information as he may be able to obtain, the secretary shall make a tabular report to the county superintendent on or before the twentieth day of July annually, showing all the statistics and other facts required in the blanks furnished by the state superintendent, with such explanations and remarks as he may deem pertinent.

Salary.

Sec. 52. The secretary of the board of education of each district shall receive for his services in districts with fewer than fifteen schools, twenty dollars; and in districts with fifteen and fewer than twenty-five schools, thirty-five dollars, and in districts with more than twenty-five schools, fifty dollars. In addition thereto he shall receive the sum of ten dollars for the report required in section fifty-one, both amounts to be paid out of the building fund of his district on the order of the county superintendent of free schools; but said

order shall not be issued until the secretary has made a correct and complete report within the time required by law.

TRUSTEES.

Appointment—Term—Oath.

Sec. 53. The board of education shall at the first meeting to be held on the first Monday of July, nineteen hundred and eight, appoint three intelligent and discreet persons trustees for each sub-district in their district, who shall hold their office, one for one year, one for two years, and one for three years respectively; and annually thereafter appoint one trustee for said sub-district who shall hold his office for a term of three years, and every trustee so appointed under this section shall be immediately notified of his appointment, and shall within ten days after receiving such notification, qualify as such by taking and subscribing to the oath of office prescribed by law.

Quorum.

Sec. 53½. No one trustee shall, by himself, have any power to perform any duty required by law of the trustees, who shall meet at a time and place fixed by two of their number, the other having had reasonable notice of such meeting, and two of the trustees shall constitute a quorum, and they shall keep a record of their acts and proceedings in a book to be furnished them by the board of education for that purpose, such book to be turned over by them to their successors in office.

May be removed.

Sec. 54. 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.

Vacancy in office.

Sec. 55. Vacancies in the office of school trustee shall be filled by the board of education for the unexpired term.

Appoint teachers.

Sec. 56. The trustees of every sub-district shall have charge of the schools therein and shall on the third Monday in July of every

year, or as soon thereafter as practicable, appoint at the school house of their sub-district, a teacher or teachers, for the ensuing term of such school, who shall hold a valid teachers' certificate, and such appointment shall be in writing according to the form of contract furnished by the state superintendent of free schools, which contract shall be at the rate fixed for the grade of certificate held by such teacher and shall be filed with the secretary of the board before the beginning of the term for which the teacher is employed.

File duplicate.

Sec. 57. No person shall be employed to teach in a free school in this state until he has presented to the trustees or board having charge thereof, a certificate in duplicate of his qualification, which duplicate shall be filed until the close of the school term with the secretary of the board of education of the district wherein said 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 so filed.

Appointment of certain persons prohibited.

Sec. 58. No trustee shall contract with or appoint as teacher of his school himself, his wife, father, son, son-in-law, grandson, brother, brother-in-law, daughter, daughter-in-law, granddaughter, sister, sister-in-law, aunt, uncle, niece, nephew, or first cousin by blood. If any trustees appoint any person so related to any two of the trustees as teacher of their school, the board of education may declare such contract void. Any teacher may be removed by the board of education for incompetency, neglect of duty, intemperance, profanity, cruelty or immorality, and any teacher so removed shall not receive any salary for the unexpired term.

Holidays.

Sec. 59. In contracts with teachers it shall be understood that school is not to be kept in operation for instruction on Saturday or any holiday, but if a holiday fall upon a day which otherwise would be a school day, and on a day immediately preceding or immediately following a day on which school is taught, it shall be counted as though taught.

Visit schools.

Sec. 60. 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 it may be necessary or useful. During such visits they shall inspect the register of the teacher and see whether it has been properly kept, and ascertain whether the pupils are supplied with books and other things required for their studies; whether the school house and grounds, closets, and other outbuildings, furniture, apparatus and library are kept in good order; whether anything injurious to health is suffered to remain about the house or grounds; and whether the school house is well ventilated and kept clean and comfortable; and where necessary they shall provide and promptly apply the proper remedy. They shall also, during such visits make such examination as they may deem pertinent respecting the studies, discipline and general condition of the school and the conduct and proficiency of the pupils, and give such directions or make such suggestions to the teacher, as, in their opinion, will promote the interests of the school, and the health, morals and progress of the pupils.

Purchase supplies.

Sec. 61. The trustees shall cause the school house under their charge and everything pertaining thereto to be kept in good order, and to this end may purchase fuel, water buckets, brooms, coal hods, shovels, poker, stove pipe, crayons, erasers, dippers and wash basins for use in the school room, and make such repairs to windows, doors, benches, desks, floors, walls, ceilings and roofs as may be necessary to make the house comfortable. The trustees shall also see that the school house is swept and that fires, when necessary, are made and kept therein by the teacher, if the teacher so desire, for which sweeping and fire building the teacher or other person doing the work shall be allowed fifty cents per week, payable at the end of the term upon a proper certificate from the trustees, out of the building fund of the district.

May allow school houses used.

Sec. 62. The trustees may allow the school house in their charge to be used for holding religious, political, or literary meetings and

Sunday school and such other meetings as may be considered beneficial to the public generally, under such regulations for the care and cleaning thereof as they may prescribe: *provided*, that such meetings shall not interfere with the public schools.

Make estimates of improvements.

Sec. 63. The trustees shall furnish the board of education at the end of the school year estimates of all improvements and repairs necessary for the preservation of buildings, grounds and furniture under their charge; also a report of the condition of the school house, and the value and kind of apparatus, the number of volumes in the school library and their value, with such explanations and additional information as they may deem useful, or as the blanks furnished by the state superintendent may require.

Report of expenses.

Sec. 64. The trustees shall keep an exact account by items of all necessary expenses incurred by them in the performance of their duties, which they shall file with the secretary of the board of education at or before the last meeting for the current school year. If the board find the account correct, they shall pay the various items thereof, out of the building fund of the district by orders on the sheriff, but if found incorrect, the secretary shall return it for correction.

Under supervision of board of education.

Sec. 65. The trustees of each sub-district shall be under the supervision and control of the board of education, and in all cases their actions shall be subject to revision and correction by the board of education, upon the complaint in writing of any three taxpayers of the sub-district.

Transfer of pupils—Tuition.

Sec. 66. Whenever any person authorized to attend school is so situated as to be better accommodated at the free school of an adjoining sub-district or independent 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 or more sub-districts in adjoining districts, whether in the same or different counties, it shall be the duty of the trustee of the sub-district in which such pupil lives to transfer him for school purposes to the sub-district in which such school house is situated for the same period that the schools of the district from which the transfer is made are in session, subject, however, to the approval of the trustees of the sub-district or the board of education of the independent district, to which such pupil is transferred; but the enumeration of youth shall be taken in each sub-district as if no transfer had been made.

Divide expenses.

Sec. 67. 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 teachers of said school as the pupils so transferred bear to the whole number of pupils taught in such school.

Consolidation of schools.

Sec. 68. Boards of education may, upon the petition in writing of seventy-five per cent. of the voters of the sub-district affected, abolish any sub-district and consolidate the school or schools therein with the school or schools of one or more other sub-districts, and provide for the conveyance of pupils to and from school at public expense under such rules and regulations as they may prescribe.

Contracts for the conveyance of pupils shall be let to the lowest responsible bidder, and all expenses thereof shall be paid out of the building fund of the district.

Who may attend school.

Sec. 69. The following persons when residing in a sub-district or independent district with intent to make such district their home, shall have the right to attend the free schools thereof, and to receive instruction therein; that is to say, every youth between the age of six and twenty-one years, and any other person, with the consent of the trustees or the board of education, as the case may be, and upon the payment of tuition fees not to exceed two dollars and fifty

cents per pupil per month, and upon such other terms as the trustees or the board of education 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 teachers' fund of said district.

Colored pupils.

Sec. 70. White and colored pupils shall not be taught in the same school, or the same building, but it shall be the duty of the board of education to establish one free school, or more if necessary, in any sub-district wherein there are ten or more colored persons of school age and, if possible, in any district wherein there are fewer than ten. For the purpose of carrying out this section the board of education may establish schools composed of pupils from adjacent districts in the manner provided in section eighteen for white pupils.

Division of funds—Mandamus.

Sec. 71. 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 district shall be divided by the board of education in the proportion which the number of colored children bear to the number of white children therein, according to the last enumeration made for school purposes, and the share of the former shall be set apart for the education of colored persons of school age in such district, and be applied for that purpose from time to time in such way as the board of education may deem best. Any board of education failing to comply with this section may be compelled to do so by *mandamus*.

Compulsory attendance—Age—Time—Misdemeanor.

Sec. 72. Every person having under his control a child between the age of eight and fifteen years shall cause such child to attend some free school for a period of twenty-four weeks, yearly, beginning with the opening of the school term. For every neglect of such duty, the person offending shall be guilty of a misdemeanor, and shall upon conviction thereof, before any justice, who is hereby authorized to try and determine such cases, be fined two dollars for the first offence, and five dollars for each subsequent offence, which fine shall

be paid into the building fund of the district in which said offence occurred.

An offence as understood herein shall consist in the failure of such persons for two days in any week to cause such child to attend school, except in cases of sickness or death in the pupil's family, or other reasonable cause, or unless the pupil be thoroughly and systematically instructed for a like period of time elsewhere: *provided*, there be a school in session within two miles of the pupil's home, by the nearest traveled road.

Truant officer.

Sec. 73. The board of education of every district or independent district at its first annual meeting, or as soon thereafter as practicable, shall appoint one or more truant officers whose duty it shall be to enforce the provisions hereof. Each officer so appointed shall use due diligence to ascertain any violation of this law, and when from personal knowledge or by report or complaint from any resident or teacher of the district under his supervision he believes that any child subject to the provisions hereof has been absent from school for two days he shall immediately give written notice to the parent, guardian or custodian of such child that the attendance of such child at school is required, and if such parent, guardian or custodian of said child does not comply with the provisions of this section at once, then such truant officer shall make complaint against such parent, guardian or custodian before the nearest justice of the peace: *provided*, that for subsequent offences in any one year no such notice shall be required.

Employer—Misdemeanor.

Sec. 74. Any person who induces or attempts to induce any such child unlawfully to absent himself from school, or who harbors or employs any such child unlawfully absent from school while the school in the district in which such child lives is in session, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of twenty-five dollars, and may be imprisoned ten days.

Duty of teachers.

Sec. 75. Teachers in ungraded schools and principals and super-

intendents in graded and high schools shall report to truant officers all cases of violation hereof in their sub-districts or independent districts, and shall furnish all reports and information necessary to the proper hearing of any case before a justice of the peace and all such teachers, principals and superintendents shall assist truant officers in every reasonable way in carrying out the provisions hereof.

Fines.

Sec. 76. All fines collected under the four preceding sections shall at once be paid over by the justice to the sheriff, and by him credited to the building fund of the proper district; and every truant officer shall make to the secretary of the board of education and to the sheriff an itemized statement on the last day of each month of all fines imposed hereunder.

Compensation of truant officers.

Sec. 77. Said truant officers shall be paid monthly at the rate of two dollars per day for the time actually spent in the discharge of their duties as such officers, but in no case shall payment for any month's services be made until the truant officer has filed with the secretary of the board of education the statement required in the preceding section, together with a sworn statement of the number of truancy cases investigated and the time actually employed in such duties. When the truant officer has faithfully performed his duties and filed the statement required, the board of education, if satisfied that the same are just and correct, shall issue and deliver to him an order on the sheriff for the amount of his account, payable out of the building fund of the district.

Subjects taught.

Sec. 78. In the free schools there shall be taught reading, orthography, penmanship, arithmetic, English grammar and language, United States history, state history, general and state geography, civil government, general history, book-keeping, elementary agriculture, and physiology and hygiene, and in connection therewith the nature of alcoholic drinks and narcotics, with special instruction as to their effect upon the human system, and in addition thereto in

graded and high schools such other subjects as may be required in the course of study prescribed by the state board of education.

State superintendent to prepare manual.

Sec. 79. It shall be the duty of the state superintendent of free schools to prepare and distribute a manual containing the courses of study prescribed by the committee on course of study and such other matter as may seem necessary to enable teachers to carry out the said courses of study, and his further duty to see that the teachers in all the various schools follow the course of study so prescribed; he shall also provide for the examination and graduation of pupils who satisfactorily complete the said course of study, and shall issue diplomas thereto.

EXAMINATION OF TEACHERS.

Time and place.

Sec. 80. The general regulation, direction and control of all matters relating to the examination of applicants for teachers' certificates, including the preparation of questions, the grading of manuscripts, the granting and the issuing of certificates, and all other powers necessary for the proper examination of applicants for teachers' certificates shall hereafter be vested in the state superintendent of free schools, who shall designate the time for holding such examination simultaneously in all the counties of the state, at such places and in such buildings as the county superintendent shall designate, subject to the approval of the state superintendent.

Expenses.

Sec. 81. For the preparation and printing of questions, the grading of manuscripts, the transmission of certificates and the additional clerical work demanded, the state superintendent of free schools shall be allowed an amount not to exceed five thousand dollars annually, which sum is hereby appropriated and set apart from the general school fund for this purpose.

Branches in which examined.

Sec. 82. Applicants for teachers' certificates shall be required to pass an examination in orthography, reading, penmanship, arith-

metic, English grammar and language, physiology and hygiene, United States history, state history, geography, civil government, and the theory and art of teaching; and applicants for certificates good in graded schools or high schools shall in addition to the foregoing be required to pass examinations in general history and single entry book-keeping. Applicants for high school and primary teachers' certificates shall pass an examination in such branches as the state board of education may prescribe.

Transmitting questions and manuscripts.

Sec. 83. The state superintendent of free schools shall prepare and transmit questions for said examination to the county superintendent of each county, securely sealed, and the county superintendent shall break the seal and open the package of questions and seal all packages of manuscripts, in the presence of his assistant and the assembled applicants, and shall conduct such examination in the manner prescribed by the state superintendent. At the conclusion of the examination, the county superintendent shall forward to the state superintendent, properly sealed, all manuscripts submitted, in accordance with full instructions to be furnished by the state superintendent, together with such information, statements or affidavit as the state superintendent may require. But no applicant known to be of immoral character, or to be addicted to drunkenness, or to be under the age of seventeen years at the time of the examination shall be admitted to said examination.

Grades of certificates.

Sec. 84. Within a reasonable time after the receipt of the foregoing manuscripts, from the county superintendent, it shall be the duty of the state superintendent and his assistants who shall be actively engaged in school work to examine and grade them, and to issue certificates in duplicate based thereon, which shall show the grade or proficiency of the applicant in each branch in which he is examined, which certificates shall be of three grades based upon the following scale:

First grade certificates shall be issued to all applicants who attain a general average of ninety on a scale of one hundred, and not lower than seventy-five on any one branch; second grade certificates shall be issued to all applicants who attain a general average of eighty, and

not lower than sixty-eight on any one branch; third grade certificates shall be issued to all applicants who attain a general average of seventy and not lower than sixty on any one branch. But no certificate shall be granted to an applicant until the state superintendent is satisfied as to the identity of that applicant.

Certificates to be signed.

Sec. 85. All certificates so issued, shall be signed by the state superintendent and forwarded by him to the proper county superintendent who shall countersign them and deliver them to the persons entitled thereto.

Where valid—How revoked.

Sec. 86. Such certificates, unless revoked as provided for in this section, shall be valid in any district or independent district in the state except in independent districts specially authorized by law to provide for the examination and certification of the teachers employed therein, in which independent districts they may be made valid by the action of the board of education thereof.

The state superintendent may after ten days' notice and upon proper evidence revoke the certificate of any teacher for drunkenness, immorality or untruthfulness, or for any other cause which would have justified the withholding thereof when the same was granted.

Duration of certificates.

Sec. 87. First grade certificates shall be valid for a period of five years and shall be renewable once for a like period upon payment of the fee of two dollars: *provided*, the holder thereof shall have taught successfully one year thereon; or has served as county superintendent of schools for any period of time while said certificate was in force; second grade certificates shall be valid for a period of three years and third grade certificates for a period of one year, and such third grade certificates shall not be issued to the same applicant more than two years in succession: *provided*, that not more than one certificate of the same grade shall be issued to an applicant in a school year, but applicant taking more than one examination in the same year shall receive a statement showing what percentage they

made in the different branches at each examination. The state superintendent and each county superintendent shall keep a register of all certificates granted, stating the character and grade of each and the date of issue thereof, and the state superintendent and each county superintendent, upon vacating his office, shall turn over said register to his successor.

Misdemeanor.

Sec. 88. If any county superintendent intentionally change the examination prescribed by the state superintendent or commit any fraud with intent to assist or hinder any person in securing a certificate, he shall be guilty of a misdemeanor and upon conviction thereof he shall be fined not less than twenty-five and not more than two hundred dollars and confined in jail not less than sixty days nor more than one year and such conviction shall vacate his office. If any person tamper with the questions or have them in his or her possession without authority of law, before the examination, or tamper with the manuscripts after the examination, or attempt to pass any such examination under any assumed name or name of any other person he shall be guilty of a misdemeanor and upon conviction thereof be fined twenty-five dollars and confined in jail not less than ten days.

Report of immorality or neglect of duty.

Sec. 89. Any county superintendent who knows of any immorality or neglect of duty on the part of any person holding a certificate shall report the same, together with all the facts and evidence to the state superintendent for such action as in his judgment may be proper.

Assistants.

Sec. 90. The county superintendents shall conduct all examinations as directed by the state superintendent, but when in any examination there are fewer than thirty applicants the county superintendent shall appoint one assistant, and if more than thirty applicants, two assistants, who shall each receive six dollar for the two days spent in helping to conduct such examination. But nothing herein contained shall prevent the state superintendent from sending a competent person to oversee such examination if he deem it expedient.

Fees—Expenses.

Sec. 91. The county superintendent shall collect from each applicant a fee of two dollars and out of the aggregate of all fees so collected he shall pay his assistants and other legitimate expenses of conducting such examination, and the remainder he shall immediately pay to the auditor of the state to be placed to the credit of the general school fund of the state. At the close of the examinations he shall make and return to the state superintendent of free schools a detailed and certified report of the names of all applicants for certificates, the amount of fees collected by him, the amount paid out as above provided for expenses, and the amount paid the auditor, and shall send with said report receipts for all money paid for expenses.

Graduates.

Sec. 92. The state superintendent of free schools shall issue first grade certificates in duplicate, upon application in due form, to graduates of the West Virginia university, who have taken at least six courses in education and to graduates in the normal departments of the state normal school and its branches, and to the graduates of the normal department of the West Virginia colored institute.

Primary teachers' certificates.

Sec. 93. In addition to the certificates above provided for there shall also be issued primary teachers' certificates which shall be valid throughout the state for teachers of the lowest grade in town or city schools having four or five teachers; for teachers in the first and second grades of town or city schools having six or seven or eight teachers; and for teachers in the first, second and third grades having more than eight teachers, and which shall be granted as herein provided for the regular certificates with the exception that the branches upon which applicants shall be examined during the year shall be selected and announced by the state superintendent of free schools at least sixty days before the examination held for said certificate, but no applicant may receive a primary teachers' certificate until the said applicant has taught at least two years on a first or second grade certificate.

High school teachers' certificates.

Sec. 94. High school teachers' certificates valid throughout the state and required for teachers in high schools shall be granted at the same time and under the same regulations as provided for granting other certificates with the exception that the branches or subjects upon which applicants shall be examined shall be selected and published in the manner provided for examinations for primary teachers' certificates. Such certificates shall be renewed as other certificates except that the additional subjects for examination may be selected from a list of additional subjects prescribed by the committee on course of study.

Grade of certain certificates.

Sec. 95. In the payment of salaries and renewal of certificates primary teachers' certificates and high school certificates shall be considered as first grade certificates.

State certificates.

Sec. 96. All certificates issued by the state board of examiners on or before the first day of May, nineteen hundred and eight, shall continue in full force and effect, and shall be deemed valid to the extent of time for which issued and on their expiration may be renewed as provided for in section one hundred and thirty-two of this act.

Teachers' authority.

Sec. 97. The teacher shall stand in the place of the parent and have control of all the children enrolled in his school from the time they arrive at the school grounds until they return to their respective homes, and may exclude from his school any pupil having a contagious or infectious disease, and may suspend any pupil guilty of disorderly, refractory, indecent or immoral conduct. But the action of the teacher in suspending any pupil shall be subject to review by the trustees. The trustees may expel any pupil on complaint of the teacher or any person interested if on investigation the conduct of such pupil is found to be detrimental to the progress of the school.

Teachers exempt from certain duties.

Sec. 97½. 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.

Register and reports.

Sec. 98. 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 the term of school, the name and age of every pupil who attended the school during the said term, and the daily attendance, distinguishing between male and female, the branches taught and the number of pupils engaged each month in the study of each branch and such other particulars as are required by the forms and regulations prescribed by the state superintendent of free schools.

Payment of teachers.

Sec. 99. When a teacher has taught according to his contract for one month he shall make out a monthly summary thereof and have it countersigned by the trustees setting forth that the school has been taught as therein reported, and deliver said summary to the secretary of the board of education who shall thereupon issue an order for the salary of such teacher for that month on the sheriff duly signed by the president and secretary payable out of the teachers' fund. But if the secretary be a teacher the order for his salary shall be signed by the president and one other member thereof.

Term register and report of enumeration.

Sec. 100. At the close of the term the teacher shall return the term report to the secretary of the board of education who shall examine it and if found correct file it in his office and if the enumeration has been properly taken and reported as required in sections one hundred and one and one hundred and two he shall issue and deliver to such teacher an order for the balance due on his salary payable as hereinbefore provided. But unless such register be prop-

erly kept and returned the teacher shall not be entitled to the payment of the balance of his salary.

Enumeration.

Sec. 101. The teacher or teachers in each sub-district or independent district shall annually before the close of the school or schools, and not later than the first day of April, take and report an enumeration of all the youth residing in such sub-district or independent district, who will be of school age on the first day of July following, distinguishing between males and females, white and colored.

Classes.

Sec. 102. The enumeration shall be taken and reported in separate classes as follows: all youth between six and sixteen years of age; all youth between six and twenty-one years of age, and all youth between eight and fifteen years of age, and, in districts where kindergartens have been established by the board of education, all children between four and six years of age. The report of enumeration shall be verified by the affidavit of the person who made it to the effect that he used all means in his power to make it; and that he believes it to be correct. He shall deliver such report to the secretary of the board of education with the term report of such school, or not later than the first day of April, and, unless such enumeration be properly taken and reported by the teacher within the time required herein, the secretary shall deduct from the last month's salary of such teacher such amount as may be necessary to defray the expenses of taking said enumeration as hereinafter provided for.

Secretary to have enumeration taken.

Sec. 103. When such enumeration for any district or sub-district is not received by the secretary on or before the first day of April, it shall be his duty, without delay, to employ a competent person to take and report the same as aforesaid. The person taking and reporting such enumeration shall be paid a reasonable compensation by the board of education not to exceed two dollars per day, for the time necessarily consumed, by an order on the sheriff, out of the building fund of the district.

Record of enumeration.

Sec. 104. 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 summary of such enumeration to the county superintendent of his county, who, not later than the first day of May, shall forward to the state superintendent of free schools a summary by districts of the enumeration so taken and reported.

INSTITUTES.

Time.

Sec. 105. As a means of improving the teachers and fitting them for more effective service in the free schools of the state, teachers' county institutes shall be held annually throughout the state, one or more in each county at such places as a majority of the teachers of such county may designate by petition to the county superintendent, or by vote at the preceding teachers' institute, and at such time between the third week in July and the last week in October, as the state superintendent shall, with the advice of the county superintendent direct, and shall continue each for one week of five days.

Attendance.

Sec. 106. Every person employed as a teacher in the free schools of the state shall be required to attend a county institute for at least five days in the year in which he teaches unless excused therefrom for a good and sufficient reason by the county superintendent of the county in which he proposes to teach. For such attendance he shall receive pay at the rate of one dollar and fifty cents per day for not exceeding five days in any one year, such compensation to be paid out of the building fund of the district at the end of his term of school. It shall be the duty of the county superintendent to see that teachers who do not so attend institute are not allowed to teach during any year in which such failure occurs.

Instructors.

Sec. 107. The institute shall be conducted by experienced and

skillful instructors appointed by the state superintendent of free schools, but it shall be a part of the duty of the county superintendent, under the instructions of the state superintendent to make all arrangements for the institutes and to assist in conducting them.

Pay of instructors.

Sec. 108. The instructors appointed by the state superintendent shall each be paid for his services and expenses out of the general school fund on the order of the state superintendent, but in no case shall the amount so paid exceed one hundred dollars for any one institute.

Enrollment fee.

Sec. 109. Every teacher enrolled in a county institute shall pay an institute fee of one dollar, seventy-five cents of which shall be remitted by the county superintendent to the auditor of the state to be paid into the state treasury to the credit of the general school fund, and the remainder may be used for incidental expenses and for the betterment of the institute, under the direction of the county superintendent, and an account of said expenses shall be read to and approved by the institute before the adjournment thereof, and any amount not expended shall be disposed of as the institute may direct.

Fees expended.

Sec. 110. The county superintendent shall, at the close of the institute, forward to the state superintendent a certified list of all persons enrolled at the county institute, giving the exact time each was in attendance, and a certified statement of the receipts and expenditures together with the receipts for all money expended.

District institutes.

Sec. 111. As a further means of improvement among teachers the county superintendent shall arrange for and conduct district institutes, or teachers' round tables, one or more in each district of his county within the school year, and any teacher who shall attend his district institute for one school day shall have credit therefor, when

reported by the county superintendent, in the month in which said institute is held, as if actually taught by him.

Reading circle.

Sec. 112. Teachers shall be encouraged to form reading circles for the purpose of pursuing courses of study in the history of education, school management, methods of teaching, educational psychology and kindred subjects, and it shall be the duty of the state superintendent to prescribe a graded course of study covering a period of two years, in the said subjects, to provide for examining those who complete the said course and to issue certificates of proficiency to such persons as pass satisfactory examination thereon.

COUNTY SUPERINTENDENT.

Election.

Sec. 113. A county superintendent of free schools shall be elected in each county by the voters thereof, at the general election held on the Tuesday after the first Monday in November, nineteen hundred and ten, who shall be a resident of the county in which he is elected, and whose term of office shall commence on the first day of July next after his election, and continue for four years and until his successor is elected and qualified according to law. The county superintendent of free schools shall immediately upon receiving the certificate of election from the canvassing board, or the county court, forward a written notice thereof to the state superintendent of free schools.

Tie in vote.

Sec. 114. In case of a tie in the vote for a county superintendent of free schools, the presidents of the various district boards of education shall at a meeting called for that purpose, at the court house of the county, by the county superintendent of free schools, 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 county superintendent and served upon the president of each district board of education at least three days before the day of such meeting in the manner provided by law for the service of other process.

Oath.

Sec. 115. The county superintendent shall within sixty days after his election qualify before the county court of his county, or the clerk thereof in vacation, by taking the oath of office and executing a bond with approved security in the penalty of one thousand dollars conditioned for the faithful performance of the duties of his office and for accounting for and paying over all money coming into his hands as such superintendent. And the said clerk shall, within five days after said qualification, certify to the state superintendent of free schools the name and address of said county superintendent and the fact of his executing such bond.

Vacancy.

Sec. 116. A vacancy in the office of county superintendent shall be filled until the next general election by the presidents of the various district boards of education, 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.

Qualifications.

Sec. 117. The county superintendent of free schools shall be a teacher of good moral character and of temperate habits, having held a first grade teachers' certificate or its equivalent; but nothing herein contained shall prevent any county superintendent from succeeding himself in office.

Salary.

Sec. 118. The county superintendent shall receive for his services an annual compensation, as follows: In counties having not more than fifty schools, five hundred dollars; in counties having more than fifty and not more than seventy-five schools, five hundred and seventy-five dollars; in counties having more than seventy-five and

not more than one hundred schools, six hundred and fifty dollars, and in counties having more than one hundred and not more than one hundred and twenty-five schools, seven hundred and twenty-five dollars, and in counties having more than one hundred and twenty-five schools he shall be allowed two dollars for each additional school more than one hundred and twenty-five. In addition thereto the county superintendent shall be allowed the same compensation for conducting examinations as is allowed his assistants: *provided*, that the salary in no case shall exceed twelve hundred dollars; the county superintendent shall not teach in any school public or private while the schools of his county are in session during his term of office, and should any county superintendent engage in teaching public or private school he shall immediately thereupon forfeit his office and cease to be entitled to any further remuneration.

Deductions.

Sec. 119. The county superintendent shall report on oath to the state superintendent the number of schools he has visited during the year, in compliance with section one hundred and twenty-one of this chapter, and the state superintendent in paying the said county superintendent shall deduct two dollars from the salary of the county superintendent for each and every school in his county which the county superintendent did not visit up to one hundred and twenty-five schools, as provided in section one hundred and eighteen of this chapter.

Payment—Report.

Sec. 120. 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 issue a requisition upon the auditor therefor, payable to the said county superintendent, or to such person as he may direct. But the payment of the fourth quarter shall not be made until the county superintendent has made the report to the state superintendent of free schools as required by section one hundred and twenty-three of this chapter and for every day after the first day of September before the receipt of the reports the state superintendent shall deduct three dollars from the salary of the county superintendent unless said reports are delayed by failure to receive sheriff's settlements or reports from secretaries of boards

of education. The salary of the county superintendent shall be paid out of the general school fund, and the amount thereof shall be deducted by the auditor from the amount next to be distributed to each county.

Visit schools.

Sec. 121. The county superintendent shall visit each school within his county, not included in an independent district, at least once in each school year, at such time as he may deem necessary and proper, and acquaint himself with the character and condition of each school, noting any deficiencies in the government of the school, the classification of the pupils, and the methods of instruction, and shall make such suggestions to the teacher, either orally or in writing, in private, as may seem necessary or advisable for the good of the school, and the progress of the pupils, and for carrying out the prescribed courses of study.

Examine buildings.

Sec. 122. He shall examine the buildings and equipment, noting the character and condition thereof, and shall make such suggestions, relative thereto, to the trustees and the board of education, as may seem advisable. He shall report to the proper board of education all cases of incompetency or neglect of duty, and to the state superintendent of schools all cases of incompetency, profanity, cruelty or immorality on the part of teachers, and all failures to carry out the prescribed courses of study.

Reports.

Sec. 123. The county superintendent shall receive and revise the reports made to him by the secretaries of the various boards of education, and see that they are in proper form, and according to law; and when deficiencies or errors are found to exist he may return them for correction. From these reports and such other authentic information as he may obtain he shall make a 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 required in the blanks furnished by the state superintendent.

STATE SUPERINTENDENT.

Qualification.

Sec. 124. 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 three thousand dollars in payment for his services to be paid monthly out of the general 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 expense, he shall be reimbursed therefor: *provided*, the amount does not exceed five hundred dollars in any one year.

Residence and seal.

Sec. 125. 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 payment of money out of the state treasury for school purposes, except as hereinafter provided.

Duties.

Sec. 126. The state superintendent shall be charged with the supervision of all county and city superintendents of free schools of the state, and shall see that the school system is carried into effect. He shall prescribe and cause to be prepared all forms and blanks necessary in the detail 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 distributed to the persons entitled to them. He shall cause as many copies of this chapter and such forms, regulations and instructions to be published from time to time as he may deem necessary, and shall cause the same to be forwarded to the county superintendents, to be distributed to the persons entitled to receive them.

Report.

Sec. 127. The state superintendent shall on or before the first day

of January preceding the session of the legislature, 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 the proper exhibit of the working of the system together with such plans as he may have matured for the better and more perfect organization and efficiency of the free schools, and all such other matters as he may deem it expedient to communicate.

Interpretation of law.

Sec. 128. At the request in writing of any teacher, school officer or county officer the state superintendent shall give his interpretation of the meaning of any part of the school law and such interpretation shall have the force and effect of law until overruled by a circuit court or the supreme court.

Books for school libraries.

Sec. 129. It shall be the duty of the state superintendent to prepare and publish a list of books suitable for school libraries with the order in which they should be provided and to recommend the proper editions thereof.

State board of education.

Sec. 130. There is hereby constituted a state board of education composed of the state superintendent of free schools, and five other persons engaged in educational work, appointed by him, one from each congressional district and not more than three from the same political party. The said board shall be appointed on or before the first day of June, nineteen hundred and eight, one member for one year, one for two years, one for three years, one for four years and one for five years, and thereafter one each year who shall serve for a period of five years. The said board shall as soon as possible after their term begins, meet at the call of the chairman and at such times thereafter as four members may determine.

Courses of study—Compensation.

Sec. 131. The state board of education shall perform the duties heretofore performed by the state board of examiners as herein provided, and in addition thereto, they shall constitute a committee on course of study and as such committee, shall prescribe a course of study for the public schools of the state, including the district schools, the primary, the graded, and the intermediate and the high schools, and define the relations that each shall bear to the others; they shall also prescribe and publish the branches in which applicants for primary teachers' and high school teachers' certificates shall be examined. And at the request of the state superintendent they may assist in the preparation of questions for the several examinations provided for by law. For such services the members of this body, except the state superintendent, shall receive five dollars per day and their actual expenses, payable out of the general school fund on the order of the state superintendent of free schools; but no member shall receive per diem for more than twenty days each year for his services in prescribing the courses of study and in preparing questions as herein provided.

The state professional certificate.

Sec. 131½. The board thus constituted shall hold at least one examination each year in each congressional district of the state for the purpose of granting the state professional certificates herein provided for, and for this purpose any three of said members shall constitute a quorum. They may issue two classes of certificates to such as are found to possess the requisite scholarship and who exhibit satisfactory evidence of good moral character and of professional experience and ability as follows: First class certificates for twelve years; second class for six years. Any person holding a certificate of the first class, who shall have taught for eight years of said twelve years shall be entitled without examination, to have the same renewed at the expiration of the said twelve years for a period of twelve years. The second class certificate shall be issued to applicants of satisfactory attainments, upon examination in the branches required for certificates under the uniform system, and in addition, not fewer than four other branches to be determined by the board.

Graduates.

Sec. 132. The second class certificates shall also be issued upon application, without examination, to the graduates of the West Virginia university, of the state normal school of West Virginia and its branches, and of other schools of this state whose grade of work is equal in all respects, in the judgment of the board to the state normal school and its branches and whose graduates shall have presented to the board satisfactory evidence that they have taught successfully three years in the state under a number one uniform certificate, one of which said three years shall immediately precede the application for such certificate. Teachers who shall present to the board satisfactory evidence that they have taught successfully four years under a second class certificate, shall be entitled to receive, without examination, a first class certificate at the expiration of the second class.

Recognition of certificates and diplomas from other states.

Sec. 133. The state board of education may also issue certificates to teachers coming from other states, when such teachers hold certificates or diplomas of equal value with those issued under this act: *provided*, the states which issued such certificates likewise recognize those issued in this state.

The board shall keep a record of its proceedings, showing the number, date and duration of each certificate, to whom granted and for what branches of study, and shall report such statistics to the state superintendent annually on or before the thirtieth day of September.

Certificates countersigned.

Sec. 134. All certificates issued by such board shall be countersigned by the state superintendent of free schools; and such state professional certificates shall supersede any and all other examinations of the persons holding them, by any board of examiners, and shall be equivalent to a first grade certificate granted under the uniform examination system and shall be valid in any school district in the state, unless revoked by the state board for good cause. Each applicant for a certificate shall pay the state board of education a fee of five dollars. And, *provided, further*, that all state certificates

issued prior to the passage of this act shall be renewed and subject to the same provisions as the certificates under this act.

Compensation.

Sec. 135. The state board of education shall each receive a compensation of five dollars per day actually and necessarily spent in conducting the examinations, and for one day to be spent in consultation and in preparing for their duties and two cents per mile for each mile necessarily traveled in going to and returning from the place of examination. This compensation shall be paid out of the fees received from the teachers examined, and shall in no case exceed the amount so received.

Report.

Sec. 136. Said board shall, at the end of each school year, make and return to the state superintendent of free schools, a detailed and certified account of the names of all the applicants for examination, the amount of fees received, the amount paid out to the members of the board, and the balance, if any, shall be paid over to the treasurer of the state, to be placed to the credit of the distributable school fund.

SHERIFF.

Bond.

Sec. 137. The sheriff of the county shall receive, collect and disburse all school money for the county and the several districts and independent districts therein. But before receiving or collecting any such school money he shall give in addition to his bond as collector of the state and county taxes, a bond with approved security in a penalty 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.

Pay orders.

Sec. 138. He shall keep accounts with the boards of education of the various districts and independent districts of the money belong-

ing to the teachers' fund, the building fund, or such other fund as there may be and shall credit every receipt and charge every disbursement to the fund to which it belongs. He shall pay out no money except upon orders signed by the president and secretary or by the president and one other member as prescribed in section ninety-nine of the respective boards specifying the amount to be paid and the fund to which it is to be charged, or upon an order of the county superintendent as provided in section thirty-three and section fifty-two of this chapter.

Annual settlement with the board of education.

Sec. 139. 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 district, at which settlement at least a quorum of the board shall be present. In this settlement he shall be charged with the amount of taxes and of general school fund apportioned to the district or independent district by the county superintendent and the amount of taxes levied by the board of education upon the property of the district or independent district for the teachers' fund, and for the building fund and for any other money received by him during the current year on account of the free schools of such district or independent district; and he shall be credited with the amount of delinquent school tax in such district or independent district that has been duly certified by the clerk of the county court to such board of education.

Payments in excess.

Sec. 140. He shall be credited in such settlements with all orders paid and produced by him, if found to be correct by the board of education, and he shall receive no other credits except his commission as hereinafter provided. If any sheriff shall pay out in any one year more money on account of the teachers' fund or of building fund than shall have been levied and could have been collected by him during said year together with the amount remaining in his hands from any preceding year he shall in such settlement receive no credits for such excess.

Method of settlement.

Sec. 141. In making said settlement it shall be the duty of the

sheriff to prepare and present to the said board of education in duplicate separate lists of all the credits claimed by him against each of the several school funds collected by him showing the amount, date and number of each voucher or order, and to whom payable, together with the statement of the proper debits to the several funds to which he is chargeable; which lists and statements together with the vouchers claimed as credits by the sheriff shall be examined by the board and if found correct the said vouchers or orders credited to said sheriff shall be endorsed by the secretary of the board on the back of each with the words, "Settled by board of education," under which the secretary shall sign his name and enter the date of the settlement; and said statements and lists as corrected shall be signed by said sheriff and by the president and secretary of the said board of education in duplicate, one copy to be retained by said board and the other, together with the vouchers and orders shall be turned over to the sheriff who shall as soon as may be deliver them to the clerk of the county court, and the same shall serve as a basis of the settlement required by section seven of article twelve of the constitution, and section one hundred and forty-two of this chapter.

Settlement with county court.

Sec. 142. In addition to the settlements required by the sheriff with each board of education, every sheriff shall also make annual settlements by districts with the county court of his county at the next term after the first day of July in each year, showing an itemized statement of all money disbursed for the preceding year on account of the teachers' and building funds in his hands, showing the amount, date and number of each credit voucher and to whom payable, and the balance due each district and independent district on each of said funds; which settlement shall be made a matter of record by the clerk of said court in a book kept for that purpose.

Corrections in settlement.

Sec. 143. But the settlements made by the sheriff with the several school districts of the county as provided in section one hundred and thirty-nine, when found correct and properly signed and turned over to the clerk of said court as required by section one hundred and forty-one, may be taken and treated as the settlements required to be made and recorded by section one hundred and forty-

two: *provided, however*, that the prosecuting attorney or any taxpayer of the county may appear before said court for the purpose of making corrections in said report, and said court may hear said objections, after reasonable notice to the sheriff and board of education and make such corrections as may be proper, and when corrected said settlements shall be recorded; and said settlement and vouchers turned over to the clerk of said court shall be filed by said clerk by districts.

Commissions.

Sec. 144. The sheriff shall receive such commissions as are now or may hereafter be provided for by law.

Failure to account for or to pay orders.

Sec. 145. If he shall fail to account for and pay over as required by law any money which may come into his hands or for which he is liable, judgment may be rendered therefor against him and his sureties with interest and ten per cent. damages; and upon the failure of such sheriff to pay any proper order issued by the said board of education 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 judgment upon motion after at least ten days' notice, may be obtained against the sheriff before any justice of his county or before the circuit court thereof, with interest from the time said order was presented and ten per cent. damages. But a sheriff shall not be required to endorse any school order nor shall suit be brought on any such school order prior to the first day of November of the current school year.

Failure to settle.

Sec. 146. If any sheriff fail to make the settlement required by section one hundred and forty-two at the time required, without reasonable cause therefor, he shall forfeit fifty dollars to the teachers' fund, and a like amount for each subsequent term of court that shall pass without such settlement. And the sheriff shall moreover be charged in said settlement with twelve per cent. interest on all

school money in his hands for the time he is in default in making the said settlement.

Action against.

Sec. 147. If the sheriff fail to make the said settlement at the time required it shall be the duty of the prosecuting attorney to proceed by action against him and his sureties in the circuit court to recover the fine imposed upon him by section one hundred and forty-six.

Failure of board of education to settle.

Sec. 148. If any board of education fail to make the settlement required by section one hundred and thirty-nine of this chapter, with the sheriff, when requested by him to do so, each member of such board so failing or refusing shall be guilty of a misdemeanor and upon conviction thereof be fined twenty dollars for the benefit of the building fund of the district.

Turn over balance.

Sec. 149. And the retiring sheriff shall within sixty days after he shall have made his final settlement in the manner herein provided, pay and turn over to his successors in office such balance as may be shown due from him by said settlement, upon proper orders of the various boards of education.

Mandamus.

Sec. 150. If any order of the board of education upon the sheriff of the county or judgment or decree for a sum of money against the said board be presented to such sheriff without obtaining payment, payment thereof may be enforced by the circuit court by *mandamus* or an order for specific levy on the property taxable in the district.

Auditor.

Sec. 151. 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 regular session.

The school fund—Board of.

Sec. 152. All such sums as have accrued to this state from the several sources enumerated in the fourth section of the twelfth article of the constitution, not in excess of one million dollars, shall be set apart as a separate fund to be called "the school fund" and 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, as provided by the fourth section of the twelfth article of the constitution. The governor shall be president of the board, and in his absence the board shall choose one of their number to preside temporarily in his place. The auditor shall be the secretary of the board and all meetings of the board shall be held in his office. A record shall be kept of all the proceedings and be signed by the president and secretary, 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.

Meeting of board.

Sec. 153. A meeting of the board of the school fund may be held at any time upon the call of any member thereof: *provided*, notice be given to all members who may be at the seat of government.

Collection.

Sec. 154. All the money due and payable into the treasury to the credit of "the school fund" shall be recovered 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.

Agents to collect.

Sec. 155. The board may appoint agents for the collection of debts or claims, and authorize them to secure payment thereof, and

to protect the interest of the school fund, on such terms as it may approve. They shall take bond from said agents, if any money is to come into their 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 paid into the treasury.

No school teacher or officer to act as agent—Penalty.

Sec. 156. 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 articles whatever, in any free school of this state, or directly or indirectly contract for or receive any gifts or reward for so introducing or recommending the same, nor shall any such school officer or teacher be otherwise interested in the sale, proceeds or profits of any book or other things 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.

Misdemeanor.

Sec. 157. Any person violating the provisions of section one hundred and fifty-six shall be guilty of a misdemeanor, and upon conviction thereof be fined not less than fifty nor more than one hundred dollars.

No school officer to be interested in contract.

Sec. 158. No county superintendent, member of a board of education, or trustee of any sub-district, shall directly or indirectly become personally interested in any contract for building or repairing school houses in his district, or be or become directly or indirectly, pecuniarily interested in the proceeds of any contract in the award or letting of which, he may have any voice or control; any county superintendent, member of such board, or any trustee, violating this section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty and not more than one hundred dollars.

Penalty not otherwise provided.

Sec. 159. 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 offence, to be recovered before a justice of the peace of the county; and such fine shall not impair or effect his liability for damages to any person injured, nor the liability of himself and his sureties on his official bond. If the board of education of any district or independent school district, fail to perform any duty required, 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.

Special elections.

Sec. 160. Whenever any special election is to be held under the provisions of this chapter, the time, place and manner of holding and conducting the same, and the manner of certifying the result thereof shall be first fixed and determined by the board ordering the same to be held, and shall conform as nearly as practicable under all the circumstances to the law now in force as to general elections.

Definitions.

Sec. 161. The words used in this chapter and in any proceedings pursuant thereto, shall, unless the context clearly indicates a different meaning, be construed as follows: (1) "School" shall mean the pupils and teacher or teachers assembled in one room (2) "Primary school" shall mean a school graded according to the scheme formulated by the common course of study and devoted exclusively to instruction in a part or all of the work prescribed for the primary grades. (3) "Grammar" or "Intermediate school" shall mean a school graded according to the scheme formulated by the committee on course of study and devoted exclusively to instruction in a part or all of the work prescribed for the grammar grades. (4) "High school" shall mean a school or schools graded according to the scheme formulated by the committee on course of study

and devoted exclusively to instruction in all of the work prescribed for the high school grades. (5) "Graded school" shall mean a school of two or more rooms, graded according to the scheme formulated by the committee on course of study in which a part of the work is done in one room and more advanced work in the next room, there being a regular gradation in the work from one room through all the rooms from the lowest or most elementary to the highest. (6) "Holiday" shall mean the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the twenty-fifth day of December, a day on which an election is held throughout the state, and a day appointed by the governor of the state for a public fast or thanksgiving. (7) "Apparatus" shall mean maps, charts, globes, arithmetical blocks, rules, pointers, dictionaries and atlases. (8) "District" shall not mean independent district.

Flags displayed.

Sec. 162. The board of education may out of the building fund purchase United States flags four by six feet, of regulation bunting, for school houses in their district, and require the same to be displayed over such school houses during the time the school is in session.

District supervision.

Sec. 163. The board of education of any district may, and upon the application in writing of a majority of the taxpayers of the district shall provide for district supervision of all the county, village and town schools in the district and establish rules and regulations necessary thereto. To this end they shall, if so requested, employ a competent teacher, holding a first grade certificate who shall devote all his time during the school term to the thorough, careful and profitable supervision of such schools and as such district superintendent shall have and exercise all the powers, duties, and privileges usually conferred upon city superintendents. But nothing contained herein shall prevent such boards of education from employing and authorizing the principal of any graded school in the district to perform the duties of a district superintendent in addition to his duties as such principal: *provided* that he shall devote at least half of the time to such superintendence.

The district superintendent shall receive such salary as the board of education may determine, to be paid out of the teachers' fund of the district as provided in the case of teachers.

District superintendents shall make such reports as may be required by the state superintendent of free schools.

Board may take charge.

Sec. 164. The board of education may take charge of schools so supervised and appoint the teachers therefor and may provide that all the schools in the district shall begin on the same date.

Text-books.

Sec. 165. All the provisions of law now in force and effect for the adoption of text-books shall continue operative until changed by law.

THE WEST VIRGINIA UNIVERSITY.

Location.

Sec. 166. The West Virginia university shall hereafter remain where now located and shall continue to be known as the West Virginia university.

Regents.

Sec. 167. The government and control of the said university shall continue, as now, to be vested in a board of regents, consisting of nine persons to be called "The regents of the West Virginia university," not more than six of whom may belong to the same political party. The regents now in office shall serve for the term for which they were appointed, and on or before the fifteenth day of March, nineteen hundred and nine, or as soon thereafter as convenient, the governor shall appoint five of said regents whose term shall begin on the first day of May following; and likewise, on or before the fifteenth day of March, nineteen hundred and eleven, he shall appoint four regents whose term shall begin on the first of May following. The two classes of regents thus appointed shall serve for four years.

and until their successors are appointed and qualified, and thereafter the term shall be for a like period of four years. A vacancy occurring in the board shall be filled by appointment by the governor for the unexpired term.

Corporation—Title to property.

Sec. 168. The regents shall be a corporation by the name of "The regents of the West Virginia university," and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and shall succeed and be substituted to all the rights heretofore held by the regents of the West Virginia university, and be vested with the title to all the real estate now owned by the said institution, and shall receive, hold, and dispose of, according to law and the intent of the instrument conveying title, any gift, grant, devise, or bequest, made for the use of the said institution.

Quorum.

Sec. 169. A majority of said regents shall constitute a quorum, but no contract for the construction or the permanent alteration of buildings shall be made, no professors, instructors, or officers employed or removed from office or their salaries changed, and no rule or regulation adopted by a majority of the regents shall be amended or repealed, except by the affirmative vote of at least a majority of said regents.

Rules and regulations.

Sec. 170. The regents shall adopt rules and regulations for the organization and government of the university and elect a president and the requisite number of professors, instructors, officers and employees and fix the salary and term of office of each.

Officers.

Sec. 171. They shall appoint a superintendent of buildings and grounds for the university and a secretary and treasurer for the said regents, taking from the said treasurer a bond with ample security in double the amount of money that will probably come into his hands at any time.

Departments.

Sec. 172. The regents shall establish and maintain in the university, in addition to the preparatory department, such colleges, schools, departments, divisions, chairs, and courses of study as may be expedient and possible, and shall prescribe the conditions for graduation therein and confer the proper degrees, and the diploma issued upon graduation to any student who has taken at least six courses in the department of education in said institution shall be equivalent in all respects to and shall entitle the holder thereof upon application in due form to the state superintendent to a first grade certificate in duplicate.

Cadets.

Sec. 173. Besides prescribing the general terms upon which students may be admitted to the university, the regents may admit, as regular students therein, not more than two hundred and twenty-five cadets in the military department. Each member of the senate shall be entitled to appoint one cadet from his district, on or before the first day of June in the second year of his term, and one cadet on or before the first day of June in the fourth year of his term. Each member of the house of delegates shall be entitled to appoint one cadet from his county on or before the first day of June next preceding the end of his term. In case a cadetship filled by appointment by any member of the legislature shall become vacant, the member making the appointment, or his successor, shall fill the same by a new appointment within the limits of time aforesaid. But no senator or delegate shall appoint any cadet until he receives a certificate from the president of the university, or the commandant of cadets, giving him notice of his right to do so; and he shall not have the right to exercise such power of appointment so long as two cadets are accredited to him and his predecessor, either by original appointment or by reenlistment. All other cadets necessary to make up the full complement of the corps, shall be appointed by the regents, including vacancies, if any, caused by the failure of any member of the legislature to make his appointment. Cadets shall not be under sixteen years of age and shall not be over twenty-two years of age. Their appointment shall be made upon undoubted evidence of good moral character and sound physical condition.

Their term of service shall be two years, but any cadet, at the expiration of his first term shall be entitled to reenlist for the further term of two years, upon giving notice of his intention to the commandant of cadets at least thirty days before the expiration of such term. But not more than fifteen cadets shall be appointed from any senatorial district, and not more than eight from one county.

Free tuition.

Sec. 174. 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 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 camps and garrison equipage, of which a sufficient supply shall be kept in the arsenal belonging to the institution, and shall be individually and collectively responsible for the preservation and safe-keeping of all arms and camp equipage belonging to said institution.

Endowment.

Sec. 175. The regents shall invest the funds derived from the sale of United States land warrants, donated to the state for endowing an agricultural college, in such securities as may be prescribed by act of congress.

State treasurer to receive grant.

Sec. 176. For the use and purposes of the West Virginia university there is hereby set apart the sum of twenty thousand dollars out of the annual appropriation made by the act of congress, approved August thirtieth, eighteen hundred and ninety, and the treasurer of this state is hereby designated as the proper officer to receive from the secretary of the treasury of the United States the said sum of money to be paid this state under said act of congress. He shall keep an exact account of the money so received and shall place it to the credit of the West Virginia university to be paid on the order of the board of regents. And said treasurer shall include in his biennial report to the governor the statement of his receipts and disbursements under this provision.

STATE NORMAL SCHOOL.

Marshall college.

Sec. 177. The "West Virginia state normal school," established under and by virtue of an 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 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.

Regents.

Sec. 178. 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 six other persons, to be appointed, by the governor as hereinafter provided, 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 lands and building of Marshall college and of the real estate heretofore conveyed by the Central Land Company 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.

The regents now in office shall serve for the term for which they were appointed and between the fifteenth day of March and the fifteenth day of April, nineteen hundred and nine, the governor shall appoint three regents whose term shall begin on the first day of June following; likewise, there shall be appointed between the fifteenth day of March and the fifteenth day of April, nineteen hundred and eleven, three regents whose term shall begin on the first day of June following. Not more than two regents of each of said two classes shall belong to the same political party and all the regents

so appointed shall serve for four years and until their successors are appointed and qualified. A vacancy occurring in the board shall be filled by appointment by the governor for the unexpired term.

Government control—Diploma.

Sec. 179. 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: *provided*, that all pupils admitted free of tuition to any one school, shall not exceed in number the whole number apportioned to such county for admission to all normal schools of this state; 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 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 of tuition, or for use of books or apparatus; that every such pupil shall pay for all books lost by him or 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 duty. 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, which diploma hereafter issued shall be equivalent in all respects to a first grade certificate for a period of five years. The said regents may establish a pay department in said school whenever the accommodations 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, 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 necessary rules and regulations for the government of said department and prescribe the tuition and the terms of admission therein. The said school shall continue to be called and known by the name of "Marshall college."

Executive committee.

Sec. 180. 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 the 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 conditions, working and prospects of said school, and shall perform such other duties in relation thereto as the said regents may from time to time prescribe.

Fairmount branch.

Sec. 181. The branch of the state normal school established at Fairmount, 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 Fairmount," shall be and remain at that place, and all 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.

West Liberty branch.

Sec. 182. 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 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.

Glenville branch.

Sec. 183. 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, 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.

Shepherdstown branch.

Sec. 184. The branch of the state normal school established at Shepherdstown, under and in pursuance of 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.

Athens branch.

Sec. 185. The branch of the state normal school at Athens 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.

Monthly report.

Sec. 186. The principals of the state normal school and its branches shall make, at the close of each month 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.

Payment of salaries.

Sec. 187. The president and the board of regents of the state normal school and its branches upon receipt of the reports required under the provisions of this chapter, shall issue his requisition upon the auditor of the state for the total amount of salary due the teachers in each normal school for the month covered by the report, which sum shall be remitted to the treasurer of the executive committee of each normal school, but in no instance shall the amount paid out to all normal schools for any one month exceed one tenth of the amount appropriated for the support of the normal school and its branches for that year.

Normal training for colored teachers.

Sec. 188. The state superintendent of free schools shall if possible, in every year, make arrangements with some suitable institution of learning in this state for the education and normal school training of a number of colored teachers in 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 such education and normal school training shall be in the same proportion to the amount expended for the pay of teachers in the normal school and its branches as the said colored

teachers are in proportion to the number of students in the normal school and branches. And the said amount shall be paid by the state superintendent of free schools at the end of each school month as provided in the case of the normal school and branches.

PREPARATORY BRANCH OF THE WEST VIRGINIA UNIVERSITY AT MONTGOMERY, FAYETTE COUNTY.

Location.

Sec. 189. The preparatory branch of the state university heretofore established at Montgomery, shall remain where now located and shall be known as the Montgomery preparatory branch of the West Virginia university, by which name it shall have and hold all property, funds, investments, rights, powers and privileges granted by this act, by bequest, private subscriptions, donation or otherwise.

Regents.

Sec. 190. For the government and control of said school, there shall be a board of regents consisting of the state superintendent of free schools and the members of the board of regents of the West Virginia university. As such they may sue and be sued, plead and be impleaded, contract and be contracted with and have a common seal.

Powers.

Sec. 191. Said board shall have all the powers to act and shall act and be controlled according to and under the laws of chapter forty-five of the code of West Virginia governing the board of regents of the West Virginia university, except as herein limited by this act.

Title.

Sec. 192. That the title to all grounds, buildings and improvements shall be vested in the board of regents of said school, to be used and controlled, as, in like manner, is the property of the West Virginia university used and controlled by its said board of regents.

Branches taught.

Sec. 193. There shall be taught in said school such branches of

learning as are taught in the preparatory department of the West Virginia university and in the normal schools of this state; but no student shall receive instruction free of tuition in any of the branches herein designated, except as to such as are taught free in the preparatory department of the university of West Virginia.

Teachers.

Sec. 194. It shall be the duty of said board of regents to employ and fix the salaries of a sufficient and competent corps of teachers and other necessary officers. Such teachers and officers to be paid as is provided by law for the payment of teachers and officers of the West Virginia university.

Tuition.

Sec. 195. All students of this or other states desiring to take other branches of study than those designated in said preparatory courses or take other courses of study in said school, shall pay such tuition as shall be hereinafter fixed by the faculty of said school.

KEYSER PREPARATORY BRANCH OF THE WEST VIRGINIA UNIVERSITY.

Location.

Sec. 196. The preparatory branch of the state university heretofore established at Keyser shall remain where now located and shall be known as the Keyser preparatory branch of the West Virginia university, by which name it shall hold all the property, funds, investments, rights, powers granted, and may receive and hold by bequest, private subscriptions, donations or otherwise, money and other property.

Regents.

Sec. 197. For the government and control of said school, there shall be a board of regents consisting of six members, who shall be appointed by the governor; not more than four of whom shall be of the same political party, and who, with the state superintendent

of free schools. who shall be *ex-officio* member shall constitute said board; the regents now in office shall serve until the expiration of the term for which they were appointed, and prior to the first day of May, nineteen hundred and nine, the governor shall by and with the advice and consent of the senate appoint three regents for the term of four years, beginning June first; likewise, on or before the first day of May, nineteen hundred and eleven, he shall appoint three regents whose term shall begin on the first day of June following. Vacancies occurring in the board shall be filled by the governor as they occur.

The members of said board shall be appointed from the citizens of Mineral, Grant, Hardy, Morgan, Pendleton, Tucker, Preston and Hampshire counties, and before entering upon the discharge of their duties, the members of the board shall take an oath to faithfully discharge their duties. The said board shall be known as "The board of regents of the Keyser preparatory branch of the West Virginia university," by which name said board shall sue and be sued, make contracts, receive and hold real and personal property as aforesaid.

Title.

Sec. 198. Title to the property, buildings and improvements except under the provisions of this act, shall be vested in the board of regents of said school, to be used and controlled for the purpose of this act.

Branches taught.

Sec. 198½ There shall be taught in said school such branches of learning as are taught in the preparatory department of the West Virginia university and in the normal schools of this state, including mechanics, and such other branches as shall fit the pupils for useful trades and callings. But no student shall receive instruction free of tuition in any of the branches herein designated, except as to such as are taught free in the preparatory department of the West Virginia university.

Teachers.

Sec. 199. It shall be the duty of said board of regents to employ and fix the salaries of a sufficient and competent corps of teachers

and officers, to be paid as provided by law, and as directed by said board of regents.

Tuition.

Sec. 200. All students of this or other states desiring to take other branches than those designated in said preparatory course, or to take other courses of study in said school, shall pay such tuition as shall be fixed by the board of regents.

Income.

Sec. 201. All moneys arising from tuition, matriculation fees or otherwise coming into the hands of the treasurer of said school, shall be used and applied to the payment of the teachers' salaries and other liabilities of said school.

Officers.

Sec. 202. The board of regents of said school shall have power to appoint a treasurer, and require him to give bond, with good security to be approved by said board, and also a secretary, to appoint an executive committee of not more than three persons, citizens of Keyser, to have the care, control and management of said school, under the order and direction of the board of regents.

Compensation.

Sec. 203. Members of the board of regents shall receive four dollars per day for the time actually employed by them and their actual expenses while attending a meeting of the board, which shall be verified by oath.

THE WEST VIRGINIA COLORED INSTITUTE.

Act of congress.

Sec. 204. An act accepting the provisions of the act of congress, approved August thirtieth, eighteen hundred and ninety, entitled "An act to apply a portion of the proceeds of the public lands to the

more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress, approved July second, eighteen hundred and sixty-two," and providing for the apportionment of said endowment according to the provisions of said act.

WHEREAS, The congress of the United States of America, by an act approved August thirtieth, eighteen hundred and ninety, entitled, "An act to apply a portion of the proceeds of the public lands to the more complete endowment and support of colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July second, eighteen hundred and sixty-two," made an appropriation to each state and territory of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety; and an annual increase of said appropriation thereafter for ten years by the additional sum of one thousand dollars over the preceding year, after which time the annual amount so appropriated will be twenty-five thousand dollars for the more complete endowment and maintenance of the colleges established under the act of congress last aforesaid," to be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural and economic science, with special reference to their application in the industries of life; and to the facilities for such instruction," and

WHEREAS, By proviso in said act no state can obtain the benefits thereof where facilities are not provided for the instruction of colored students in said branches of study, either in the same institution or in separate institutions, and the legislature of the several states are required to make an equitable division of said annual appropriation where such separate institutions are provided and report the same to the secretary of the interior, and

WHEREAS, The constitution of the state of West Virginia forbids the education of white and colored youth in the same state schools; and this state having heretofore made no provision for the separate education of colored youth in agricultural and mechanic arts; and the enumeration of the white and colored youth of this state of school age, being about two hundred and fifty thousand white and twelve thousand colored, it being the duty of this state to indicate a reasonable proportion of said appropriations to be set apart annually for the instruction of the colored youth of the state, the sum of

three thousand dollars is hereby indicated as an equitable portion of said appropriations for five years from the date of the passage of this act, and after that time five thousand dollars as long as such appropriation continues; and

WHEREAS, By the terms of the said act of congress of the United States, approved August thirtieth, eighteen hundred and ninety, it is necessary, in order to enable this state to share in the appropriations so made and to be made under the provisions of said last recited act, for the legislature to accept of the provisions of said act for and on behalf of this state, and to make proper and suitable provisions for said act upon which this state will be entitled to her distributable share of said appropriations, and to designate the institutions of learning to become the beneficiaries of said appropriations, and the officer of this state to whom the money shall be paid by the United States for the use of said beneficiaries.

Therefore, Be it enacted by the Legislature of West Virginia:

Acceptance of grant.

Sec. 205. The legislature of the state of West Virginia hereby accepts for said state, the terms and provisions of the said act of congress of the United States approved August thirtieth, eighteen hundred and ninety, for the objects and purposes mentioned and declared therein, and designates "The West Virginia university," established in pursuance of the act of congress of the United States passed July two, eighteen hundred and sixty-two, and a subsequent act passed by said congress on April nineteen, eighteen hundred and sixty-four, at Morgantown, in the county of Monongalia in this state, as a beneficiary of said appropriation for the instruction of white students, and an institution to be located and provided for the purpose as hereinafter required and directed, in the county of Kanawha, to be called "The West Virginia Colored Institute," for the beneficiary of said appropriation for the instruction of colored students, to be paid to each in the proportion mentioned in the preamble to this act. And the said institution by the name of "The West Virginia Colored Institute," shall have and hold all the property, funds, rights, powers and privileges hereinafter mentioned.

Regents.

Sec. 206. For the government and control of said institute, there

shall be a board of regents, consisting of the state superintendent of free schools and six other competent persons, not more than four of whom shall belong to the same political party, to be called the "Regents of the West Virginia Colored Institute," and as such board they may sue and be sued, plead and be impleaded, and have a common seal. The governor shall, between the fifteenth day of March and the fifteenth day of April, in the year nineteen hundred and nine, and every four years thereafter, nominate and, by and with the advice and consent of the senate, appoint said six regents, whose term of office shall begin on the first day of June next following their appointment, and continue for four years and until their successors are appointed and qualified. Vacancy in the office of regent shall be filled by appointment by the governor for the unexpired term. Said board shall have the care, custody and control of the property and funds of the institute, and may accept from any person or persons, gifts of money or property for the use of said institute; and all such money and property when so received by them, shall be held in trust by them for the use and benefit of the institute, and applied thereto as the donors may have directed, and if no such directions have been given, as a majority of the regents may determine.

Regents to establish departments.

Sec. 207. The board of regents shall from time to time establish such departments of education in literature, science, art and agriculture, not inconsistent with the terms of the several acts of congress hereinbefore referred to as they deem expedient, and as the funds under their control will warrant, and purchase such materials, implements and apparatus, as may be requisite to the proper instruction of said colored students in all said branches of learning as to carry out the intent and purpose of said acts of congress.

Rules and regulations.

Sec. 208. 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, which diploma hereafter issued shall be equivalent in all respects to a first grade certificate for a period of five years. The said regents may establish a pay depart-

ment in said school whenever the accommodations 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. The said board shall establish and declare such rules, regulations and by-laws, not inconsistent with the laws of the United States or of this state, as they may deem necessary for the proper organization, the tuition of the students and the good government of the institute, and the protection of the property belonging thereto. All reasonable expenses incurred by said regents in the discharge of their duties hereby imposed upon them shall be allowed by the governor and paid out of the treasury of the state, in like manner as other charges on the treasury are paid.

State treasurer to receive grants.

Sec. 209. The treasurer of this state is hereby designated as the officer to receive from the secretary of the treasury of the United States the said several sums of money so to be paid to this state aforesaid, for the uses and purposes aforesaid. He shall keep an exact account of the moneys so received, and shall place to the credit of each of said beneficiaries thereof, its due proportion of the same. The sums so placed to the credit of the West Virginia university shall be paid out by him on the order of the board of regents thereof, and the sums so placed to the credit of the West Virginia colored institute, shall be paid out by him on the order of the board of regents of said institute. And said treasurer shall include in his biennial report to the governor a statement of his receipts and disbursements under the provisions of this act.

Site and buildings.

Sec. 210. It shall be the duty of the board of the school fund to proceed with all reasonable dispatch to procure the necessary quantity of farming land not exceeding fifty acres in all in some suitable and proper locality in the county of Kanawha, with a title thereon clear and unquestionable, and to erect the necessary buildings and make the necessary improvements thereon, for the purposes of this act, and to comply in good faith with the terms and conditions, and to carry into effect the objects and purposes of the acts of congress in making said appropriations.

BLUEFIELD COLORED INSTITUTE.*Location.*

Sec. 211. The Bluefield colored institute shall remain where now located, and shall be known as the "Bluefield Colored Institute," by which name it shall have and hold all the property, funds, investments, rights, powers and privileges created by this act, by bequest, private subscription, donation or otherwise.

Regents.

Sec. 212. For the government and control of said institute there shall be a board of regents consisting of the state superintendent of free schools and five other persons, not more than three of said persons shall belong to the same political party.

Said board shall be a body corporate under the style of "Board of regents of the Bluefield Colored Institute," and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and have and use a common seal. The governor shall, between the fifteenth day of March and the fifteenth day of May, in the year nineteen hundred and nine and every four years thereafter, nominate and, by and with the advice and consent of the senate, appoint said five regents, whose term of office shall begin on the first day of June next after their appointment and continue for four years and until their successors are appointed and qualified. A vacancy in the office of regents shall be filled by appointment by the governor for the unexpired term. The compensation of said regents shall be the same as that provided for the regents of the West Virginia colored institute.

Powers.

Sec. 213. Said board shall have all the powers to act, and shall act and be controlled according to and under the laws governing the board of regents of the normal schools of this state, except as here limited by this act.

Property vested in board.

Sec. 214. All grounds and improvements belonging to said institution shall be vested in the board of regents of said school, to be

used and controlled in like manner as the property of the normal school and branches is used and controlled by its said board of regents.

Branches to be taught.

Sec. 215. There shall be taught in said school such branches of learning as are taught in the preparatory department of the West Virginia university and in the normal schools of this state, but no student shall receive instruction free of tuition in any of the branches here designated except as provided in section one hundred and seventy-nine of chapter forty-five of the code of West Virginia, and as to such as are taught free in the preparatory department of the university of West Virginia.

Teachers.

Sec. 216. It shall be the duty of the said board of regents to employ and fix the salaries of a sufficient and competent corps of teachers and other necessary officers, such teachers and officers to be paid as is provided by law for the payment of teachers and officers of the normal schools of this state. The said salaries to be paid out of any moneys in the state treasury not otherwise apportioned.

Tuition.

Sec. 217. All students of this state desiring to take other branches of studies than those designated in said preparatory course or taking other courses of study in said school, shall pay such tuition as shall hereafter be fixed by the faculty of said school.

Expenditures.

Sec. 218. All money arising from tuition, matriculation fees or otherwise, coming into the hands of the treasurer of said school, shall be used and applied to the payment of teachers' salaries and other liabilities of said school.

THE WEST VIRGINIA SCHOOL FOR THE DEAF AND
THE BLIND.

Sec. 219. The West Virginia school for the deaf and the blind

heretofore established shall remain at Romney and be known as "The West Virginia school for the deaf and the blind."

Regents.

Sec. 220. For the government and control of said school there shall be a board of regents consisting of nine persons to be appointed by the governor, as hereinafter provided, who shall be called "The regents of the West Virginia school for the deaf and the blind," 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.

Regents—Appointment of.

Sec. 221. The board of regents of the West Virginia school for the deaf and the blind shall be composed of nine members. These shall be divided into three classes of three regents each and shall be appointed as follows: On or before May thirty-one, nineteen hundred and nine, the governor shall, by and with the consent of the senate, appoint three regents; on or before May thirty-one, nineteen hundred and eleven, he shall appoint three; and on or before May thirty-one, nineteen hundred and thirteen, he shall appoint three, and the regents so appointed shall serve for a term of six years from the first of June following their appointment and until their successors are appointed and qualified. The regents now in office shall serve for the term for which they were appointed. The governor may by appointment fill any vacancy occurring in the board for the unexpired term, and any regent appointed during the recess of the senate shall serve until the next meeting of the senate. Not more than two members of each of the three classes of regents hereinbefore mentioned, shall belong to the same political party and two regents shall not be appointed from the same senatorial district.

Meetings.

Sec. 222. The board of regents shall appoint one of their number president, and in case of his absence, a president *pro tempore*, and shall appoint a secretary, and all orders, drafts, or requisitions for money from the state shall be signed by the secretary and coun-

tersigned by the president. Said board shall meet annually on the third Tuesday in October and at such other times as they may think necessary. Extra meetings may be called by the president or by any three members of the board by notifying the other members of the time and place of the meeting and the nature of the business which renders an extra meeting necessary. A majority of the board shall constitute a quorum for the transaction of all ordinary business, but the board may in its discretion, designate business which may be transacted by a stated number of regents less than a quorum.

Principal.

Sec. 223. It shall be the duty of the principal under the direction of the board, to superintend the affairs necessary for the proper conduct of the institution, and to make such general regulations as may be necessary for the successful management of the same and to purchase such books and apparatus as may be necessary for the efficient working of the institution.

Teachers—Overseers—Employees.

Sec. 224. Said board shall appoint a principal and all necessary teachers, officers and employees, and shall provide the furniture, fixtures, apparatus and other things necessary for the comfort and convenience of the pupils of the institution.

Steward—Salaries—Residence.

Sec. 225. The said board may, when they deem it necessary, elect a steward; and the principal and matron shall reside in the institution and the steward and teachers in or near it. All salaries shall be fixed by the board of regents and shall be paid monthly or quarterly, as the board may deem proper, out of the funds appropriated by the legislature.

Physician.

Sec. 226. The board of regents shall employ as visiting physician of the institution, a physician of reputable standing in his profession, and fix his salary, not to exceed five hundred dollars per annum, to be paid in the same manner as the salary of teachers. And

it shall be his duty to render all medical assistance necessary to the pupils in the institution.

Bond.

Sec. 227. The principal and steward shall give bond with approved security in such amount as the board of regents may direct, for the faithful discharge of their respective duties.

Regulation—Reports.

Sec. 228. The board of regents shall prescribe such by-laws, rules, and regulations for the government and conduct of the institution under their charge as shall be necessary to secure the harmonious and efficient management of said institution in all its parts. They shall require such reports from the principal, steward, matron and physician as in their opinion the welfare of the institution may demand, and they shall annually, on or before the first day of December, report to the governor all the facts and circumstances in connection with the conduct and progress of the institution, with a careful statement of all the receipts and expenditures of the same, and shall accompany their annual reports with such recommendations and suggestions as will enable the state efficiently to foster and promote the enterprise of educating the deaf and blind youth within its limits. The fiscal year of the institution shall end on the last day of September, and the accounts of the institution shall be kept with reference to said fiscal year.

Accommodations.

Sec. 229. The board of regents may provide in said institutions accommodation for all the officers, teachers, assistants and employees, and for all the deaf and blind youth resident of the state who may apply for admission to the said institution, between the ages of eight and twenty-five years, and for such other deaf and blind persons as may apply for admission as pay pupils under such regulations as said board may direct, but all youth admitted must be of sound mind and not afflicted with any contagious disease.

Admission.

Sec. 230. All such deaf and blind youth resident of the state,

between the ages of eight and twenty-five years, shall be admitted to the institution on application to the principal, until the institution is filled. Applicants shall be admitted in the order of their application, and it shall be the duty of the principal to keep a careful record of the names of all applicants, with the dates of the admission and discharge, their age, post office address, the name of their parents or guardians, and the degree, cause and circumstances of their deafness and blindness.

Clothing.

Sec. 231. All such deaf and blind pupils shall be admitted as above directed without charge for board and tuition; and when not otherwise provided with clothing they shall be furnished therewith by the institution while they are pupils therein, and the principal shall make out an account therefor in each case against the respective counties from which said pupils come, in an amount not exceeding forty dollars per annum for every such pupil, which account shall be sworn to by the principal and countersigned by the secretary, and which shall be transmitted by the principal to the auditor of the state, whose duty it shall be to transmit a copy of the same to the clerk of the county courts of the respective counties in which such pupils live, and the county court of such counties shall thereupon at their next session thereafter held for the purpose of making a county levy, include in such levy the amount of said account against their counties, and cause an order to be issued on the sheriff of the county in favor of the auditor of the state, and cause the same to be transmitted by the clerk of said court to the auditor, whose duty it shall be to collect the same and place it to the credit of the institution, to be drawn out upon a requisition as a part payment of the current expenses of said school. If the same is not paid to the auditor by the respective counties from which they are due in a reasonable time, it shall be the duty of the auditor to collect the same by law.

Age.

Sec. 232. The pupils of said school may continue therein five years, and for as much longer as in the discretion of the board and principal their condition and progress would seem to justify. After all the applicants between the prescribed ages of eight and twenty-five years have been admitted, if there are accommodations, the principal

may admit other deaf and blind persons who may be of suitable age to receive any advantage from the institution, and upon such terms as the board may prescribe; but it shall be distinctly understood that such persons shall withdraw from the institution in the order of their admission to make room for new applicants between the ages prescribed.

Instruction.

Sec. 233. The course of instruction in the institution shall be prescribed by the board of regents with the advice of the principal, and shall be as extensive both in the intellectual, musical and mechanical departments as the capacities and interests of the pupils may require.

Registration of deaf and blind.

Sec. 234. In addition to their other duties the assessors of the state are hereby required to register in a book to be furnished them by the auditor for the purpose, the names of all the deaf and the blind persons in their respective districts, with the degree and cause of deafness and blindness in each case as far as can be ascertained, from the heads of the families, or from other persons whom the assessors may conveniently consult, their ages, the names of their parents or guardians, their post office address, and such other facts as may be useful in making the said institution efficient in ameliorating the conditions of the deaf and blind. They shall complete the registration as early as possible and forward their report to the auditor who shall if practicable before the first day of July, or as soon thereafter as possible make an alphabetical abstract of all the facts furnished him by the assessors' reports, and shall send the same by mail to the principal of the West Virginia school for the deaf and the blind, and said principal is hereby further required to put himself into immediate correspondence with all the deaf and blind persons, of suitable age and condition, mentioned in the auditor's abstract, with a view to their admission as pupils into said school.

Compensation of assessors.

Sec. 235. The assessors shall receive for the extra duties hereby imposed the same compensation as now allowed them for the regis-

tration of births and deaths, and shall be liable to the same penalties for failure to discharge their duties.

WEST VIRGINIA REFORM SCHOOL.

Sec. 236. The West Virginia reform school, heretofore established shall hereafter remain at Pruntytown and be known as the West Virginia reform school.

Regents.

Sec. 237. For the government and control of said reform school there shall be a board of regents consisting of five persons to be appointed by the governor as hereinafter provided, who shall be called "The regents of the West Virginia reform 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.

Said board of regents shall consist of five members who shall be residents and voters of the state. Not more than three of said regents shall be appointed from the same political party, and no two shall be appointed from the same senatorial district. The regents now in office shall serve for the term for which they were appointed and as the term of each regent now in office expires, the governor shall fill the place by appointment. Each regent appointed shall serve for a period of four years and until his successor is appointed and qualified. The governor may by appointment fill any vacancy occurring in the board, for the unexpired term.

President—Quorum.

Sec. 238. The board of regents shall biennially choose one of their body to be president of the board, and in his absence shall choose a president *pro tempore*. A majority of the board shall constitute a quorum, but the board may in its discretion designate business, of a nature by it to be specified, which may be transacted by a stated number of regents less than a quorum.

By-laws, etc.

Sec. 239. The board of regents shall make such ordinances, rules,

and regulations relative to the management, government, instruction, discipline, training, employment and disposition of the minors in the reform school, not contrary to law, as they may deem proper, and shall appoint such officers, agents and employees as they may deem necessary to transact the business and carry on the operation of said reform school, and may designate their duties.

Annual report of board of regents.

Sec. 240. The board of regents shall make an annual report to the governor of their transactions, of the number of minors received by them in the said reform school, the disposition which has been made of such minors, by instructing or employing them therein or by binding them out as apprentices; the receipts and expenditures of said board of regents, and generally all such facts and particulars as may tend to exhibit the influences, whether beneficial or otherwise, of said reform school.

Inmates—Who may be committed and for what manner of commitment.

Sec. 241. Any boy under the age of eighteen years may be committed to and received into the West Virginia reform school for the reasons and in the manner following:

First—By a justice of the peace of the county in which he resides, on complaint under oath and due proof made to him by the parent, guardian or other persons having the custody and control of such minor; that by reason of incorrigible or vicious conduct such minor has rendered his control beyond the power of the parent, or guardian or such other person, and made it manifestly requisite that, from regard for the morals and future welfare of such boy and for the peace and order of society, he shall be placed in said school.

Second—By the same authority upon complaint under oath, and due proof before the justice that such minor is a vagrant, incorrigible or vicious in disposition and conduct, and that his parents, guardian or other person having custody or authority to control him, are depraved or otherwise unfit, unwilling or unable to exercise care and discipline over such minor.

Third—By the several courts of this state, as provided in the next section.

Minors convicted of crime.

Sec. 242. Whenever any boy under the age of eighteen years, shall be convicted in any of the courts of this state of a felony or of a misdemeanor, punishable by imprisonment, the judge of said court in his discretion, and with reference to the character of the reform school as a place of reform and not of punishment, instead of sentencing said minor to be confined in the penitentiary or county jail, may order him to be removed to and confined in said reform school, to remain until he shall have arrived at the age of twenty-one years, unless sooner discharged or bound as an apprentice by the board of regents. Boys under eighteen years of age, convicted in any of the courts of the United States for the district of West Virginia, of any offence punishable by imprisonment, may also be received into said reform school under such regulations and on such terms as to maintenance and support as may be prescribed by the board of regents, and assented to by the proper authority of the United States.

And in all cases, before any minor is transferred to said reform school, due notice shall be given to the superintendent and an answer received from him that there is room in the reform school for such minors.

Names and residences of witnesses to be annexed to commitment.

Sec. 243. It shall be the duty of the justice of the peace when committing a minor to said reform school under the first and second clauses of section two hundred and forty-one of this chapter to annex to the commitment the names and residences of the different witnesses examined before him, and the substance of the testimony given by them respectively, on which the adjudication was found.

Guardian ad litem—Trial by jury—Appeal.

Sec. 244. In all proceedings before justices of the peace for commitment of minors to the said reform school under the first and second clauses of section two hundred and forty-one of this chapter, the justice shall appoint some discreet and disinterested person guardian *ad litem* for the said minor, and see that no injustice is done him; and the guardian *ad litem* of said minor shall have the right to demand a jury of twelve men to try the truth of the charges.

made against said minor, and said jury shall be selected and said trial shall be conducted in the same manner as provided by law for the trial of criminal cases before a justice or juries. And said guardian *ad litem* of said minor shall have the right of appeal from any final decision rendered against said minor in any proceeding, whether upon a trial by jury or otherwise, as is provided by law for the trial of criminal cases before justices. And said guardian *ad litem* of said minor shall have the right of appeal from any final decision rendered against said minor in any proceeding, whether upon a trial by jury or otherwise, as is allowed by law in other criminal cases tried before justices.

White and colored inmates to be kept separate.

Sec. 245. The West Virginia reform school shall be exclusively charged with the reformation and care of male minors, and white and colored inmates shall be kept separate.

Binding out inmates as apprentices.

Sec. 246. The board of regents shall have the power to bind out male children committed to their care, with the consent of such children, as apprentices during their minority, to suitable persons in or out of this state, to learn some proper trade and employment by which said children shall be bound, shall contain the covenants and provisions prescribed by chapter eighty-one of the code of West Virginia, relating to master and apprentices, and all the provisions of said chapter shall apply to apprentices bound under this section, so far as applicable.

*Term of confinement—Transfer of inmates to or from penitentiary
—Remission of penalty.*

Sec. 247. Every boy sent to the reform school shall remain until he is twenty-one years of age, unless sooner discharged or bound as an apprentice by the board of regents; but no boy shall be retained after he has been reported by the superintendent and found by the board or executive committee to be fully reformed: *provided* that in any case where a boy is committed to the reform school for an offence punishable by confinement in the penitentiary, and is found by the board of regents that the reform school is unable to benefit such

boy, and that his presence is a detriment or menace to other boys in the institution or to the general good of the school, he may be securely returned to the court which sent him, and said court shall thereupon pass such sentence upon him as to confinement in the penitentiary as may be proper in the premises, or as it would have done had it not sentenced him to the reform school. And the governor shall have power, when in the judgment of the warden of the penitentiary and the superintendent of the reform school it is advisable, to remit the penalty of any youthful offender under the age of sixteen years, confined in the penitentiary, to a sentence to the reform school.

Offences against inmates—Penalty.

Sec. 248. If any person shall entice or attempt to entice away from the reform school any boy legally committed to the same, or shall aid or abet any boy to escape from said reform school, or shall harbor, conceal, or aid or abet in harboring or concealing, any boy who shall have escaped therefrom, or shall, without the permission of the superintendent, give, or aid or abet any other person to give any boy in said reform school whether on the premises of said institution or not, any money whatsoever, or shall in any way cause or influence, or attempt to cause or influence or aid or abet therein, any boy in said reform school to violate any rule of the institution, or to rebel against the government of said school in any particular, or shall receive by the hands of any such boy any thing of value, whether belonging to the state or otherwise, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars, or to be confined not more than twelve months in the county jail, or both fined and imprisoned as aforesaid, as the court may deem proper:

And the superintendent or any of the assistants or any one authorized in writing by him, or any sheriff, constable, policeman or other officer, shall have authority, and it is hereby made his duty to arrest any boy, when in his power to do so, who shall have escaped from said school, and return him thereto.

Compensation of justices, jurors, etc., in proceedings for commitment.

Sec. 249. Justices, constables and jurors shall receive the same

fees in a proceeding for committing a boy to the reform school as are allowed by law for similar services in misdemeanor cases, and such fee shall be paid in like manner as fees of such officers and persons are paid in misdemeanor cases. Any officer taking a boy to the reform school shall be allowed five cents a mile for each mile necessarily traveled in going to and returning from such school, and in addition thereto, the amount actually expended by him for the transportation of such boy, which shall be paid out of the county treasury.

Payment for support of inmates.

Sec. 250. The county court of every county shall pay into the state treasury the sum of fifty dollars a year on account of each minor from the county who shall be received in said school of the first, second and third classes mentioned in section two hundred and forty-one. But in all cases of minors received in said school of the first class mentioned in said section, the parent, if of sufficient means, or the guardian if the minor has sufficient estate, shall annually reimburse the county the amount so paid into the state treasury, and the county court of such county may recover the said amount from such parent or guardian in any court of competent jurisdiction.

List of inmates—Charging maintenance of inmates to counties.

Sec. 251. The superintendent or principal of said school shall before the tenth of January in each year make out and certify to the auditor a list by counties of all such minors as are mentioned in the preceding section, who are kept in the school during the preceding year or any part of it, showing as to each minor what part of the year he was so kept in the school, and to which class he belonged. On receiving such list the auditor shall charge to each county fifty dollars on account of each minor who was kept in such school during the preceding year, and a proportionate amount on account of each minor kept in school for any part of such year less than the whole.

Any money in the treasury of the state to the credit of any such county from whatever source arising, and not appropriated to pay any other debt of the county to the state, shall be applied, so far as necessary, to the payment of the same so charged; if any sum in the treasury due the county shall not be sufficient to pay the whole

amount so charged against it, such sum shall be applied as a credit on the amount charged, and the balance shall remain as a charge against the county.

Statements.

Sec. 252. Within ten days after receiving such lists the auditor shall certify to the county court of each county a list of the minors from the county in such school, stating the class to which each belongs, the length of time during the year he was in such school as shown by the list certified by the principal or superintendent, and the amount due from the county on his account and the total amount due on account of all. He shall credit on such statement whatever amount has been applied as a payment thereon from any funds of the county in the treasury.

Such statement shall be a receipt to the county for any amount so credited, and shall be a bill for any amount still appearing to be due from the county. Unless the bill shall have been paid by the application of funds of the county in the state treasury, the county court shall at its next levy term provide for the payment of the same, or such part as may not have been paid, and cause the amount to be paid into the state treasury. If the amount so due from any county be not paid in a reasonable time after such levy term, the auditor may, in the name of the state, apply to the circuit court of the county for a *mandamus* to require the county court to provide for and pay the same, or he may proceed in the name of the state by any other appropriate remedy to recover the same.

INDUSTRIAL HOME FOR GIRLS.

Location.

Sec. 253. "The West Virginia Industrial Home" shall remain where now located.

Regents.

Sec. 254. For the government and control of the said "The West Virginia Industrial Home" there shall be a board of regents consisting of six persons to be called the regents of the West Virginia industrial home. The regents now in office shall serve for the term for which they were appointed and their successors shall be ap-

pointed as follows: On or before March thirty-one, nineteen hundred and nine, the governor by and with the consent of the senate shall appoint two regents who shall serve for a term of four years and until their successors are appointed and qualified; and on or before March thirty-one, nineteen hundred and eleven, he shall appoint four regents who shall serve for a like term of four years and until their successors are appointed and qualified. No two of the regents appointed on this board shall be residents of the same senatorial district. The governor may fill any vacancy occurring during the recess of the senate and any regent thus appointed shall serve until the next meeting of the senate.

The members of the said board of regents shall constitute a corporation under the name of "The Regents of the West Virginia Industrial Home", and as such may sue and be sued, contract and be contracted with, and shall have a common seal. They shall have authority to receive, hold and convey any gift, grant or devise, and the title to any property now held or hereafter acquired for said industrial home shall be vested in them.

Quorum.

Sec. 255. The board of regents shall biennially choose one of their number president of the board, and in his absence shall choose a president *pro tempore*. A majority of the board shall constitute a quorum, but the board may, in its discretion, designate business of a nature by it to be specified, which may be transacted by a stated number of the directors less than a quorum.

Rules and regulations.

Sec. 256. The board of regents shall make such by-laws, ordinances, rules and regulations, relative to the management, government, instruction, discipline, training, employment and disposition of the girls of the home, not contrary to law, that they may deem proper; and shall appoint such officers, agents and servants as they may deem necessary to transact the business and carry on the operation of said home, and designate their duties and fix their compensation; but all the officers, agents and servants for the internal management shall be women. The board shall adopt rules governing the transportation of minors to and from said home.

Report.

Sec. 257. The board of regents shall make an annual report to the governor of all their transactions, of the number of minors received by them in said home, the disposition which shall be made of such minors, by instructing or employing them therein, or by binding them out as apprentices; of the receipts and expenditures of the board, and generally all such facts and particulars as may tend to exhibit the effect, whether beneficial or otherwise, of said home.

Commitment papers.

Sec. 258. Girls eligible to be received into said home are those who are from seven to eighteen years of age, and who may be committed by any justice of the peace of this state, on complaint and due proof made to him by the parent, guardian or next friend of such girl, that by reason of incorrigible or vicious conduct, such girl has rendered her control beyond the power of such parent, guardian or next friend, and made it manifestly best that such girl should be placed in said home; or by any criminal, circuit or intermediate court of this state. Girls may be so committed for vagrancy up to eighteen years of age, or where parents, guardians, or next friends agree and contract with the board of regents for their support and maintenance, or girls up to fifteen years of age, who may be found in houses of ill fame or assignation houses, upon conviction thereof before any justice of the peace, mayor of a town or city; or girls convicted by any of the courts of this state of felony or misdemeanor, punishable by imprisonment, the judge in his discretion, instead of confining such girl in the county jail or sending her to the penitentiary, may transfer such girl so convicted to said home, from any county of this state: *provided*, there is room there for such girl. Every girl committed to said home shall remain there until she is twenty-one years of age, unless sooner discharged by the board of regents.

Commitment.

Sec. 259. It shall be the duty of the justice of the peace, mayor or other authority, when committing any girl to said home, in addition to the commitment, to annex the name and residence of the witnesses examined, and the substance of the testimony given on which

the adjudication was founded, as well as the name and residence of the girl, the name of her parents, and their residence, if known. Any girl who may be found incorrigible, or pregnant, or otherwise an improper subject for admission to said institution, may be returned by the board of regents to the court, justice or other authority by whom she was committed, and thereupon such court, justice or other authority, shall have power to pass sentence as would have been legal in the first instance, as if such girl had not been sent to said home.

Guardian ad litem.

Sec. 260. In all cases coming before a justice, mayor or other authority, they shall appoint a guardian *ad litem* for such girl, who shall be some disinterested person, discreet and careful, and who shall see that no injustice is done the girl; and he shall have the right to demand a trial for his ward by a jury of twelve men to ascertain the truth of the charges against the girl, and said jury shall be selected, and trial conducted, as other trials are conducted by justices in criminal cases before them. Or, said justice or court may, without a jury, try such girl, if no jury is demanded by her guardian or next friend.

White and colored inmates.

Sec. 261. The said industrial home shall be exclusively charged with the reformation and care of girls, but white and colored shall be held separate as far as practicable.

Apprentices.

Sec. 262. The board of regents shall have power to bind out such girls as committed to their care as apprentices to the time said girls shall arrive at twenty-one years of age, to learn some proper trade, business or calling, on such terms as will be advantageous to such girls; but such girls so bound out, are to be bound only to those whose characters are above reproach, and within the state. The indentures by which any girl may be so bound shall state for what period she is bound, her age, what trade, art or business she is to follow, and that the master shall see that for at least five months in

each year said apprentice shall be sent to the free schools of the state, and shall be bound to furnish school books requisite to learn the usual branches taught; the amount to be paid said child for each year, if anything above the maintenance of said child, and for what year or years, and the master shall bind himself with good security to pay the amount agreed upon; which sum of money, if any, contracted to be paid, shall be reserved, to be paid said girl or girls so bound, when their apprenticeship shall cease with interest, and said board shall not bind out any girl under the provisions of this act, unless the master bind himself to comply with the condition thereof, and whatever salary said master shall give, shall be paid to the board of regents; and it shall be the duty of said board to collect the same according to the tenor or effect of such contract, and turn the same over to the girl when she arrives at twenty-one years of age, or sooner if she marries, when the same shall be turned over to her.

Cruelty to apprentices.

Sec. 263. For cruelty or inhuman treatment by such master of such apprentice, the circuit court of the county in which such master or apprentice may reside, or any justice of the peace of any such county shall have jurisdiction to try same, and upon conviction of such master for cruel or inhuman treatment of such child, such master shall be fined not less than ten nor more than one hundred dollars, and may in addition thereto be confined in jail not to exceed ninety days.

Misdemeanor.

Sec. 264. No master can remove such child out of the county where she has been bound by such board, except on the written permit of such board; and any person who shall aid or assist any girl who has been committed to said institution, or who is subject thereof, to escape from any other home or other place where she has been placed by the officers of the said institution, or who shall aid or assist any such girl to leave this state, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than twenty-five dollars, and any justice of the county wherein such offence is committed shall have jurisdiction thereof.

Desertion.

Sec. 265. The circuit court of the county shall in a summary

way be open to hear any complaint of such master against his apprentice or to said apprentice against the master, and shall make such order in relation thereto as it shall deem fair and right. Any apprentice who shall desert the service of such master shall receive no pay, (if the pay exceed the maintenance), while such desertion continues, and anyone who shall knowingly harbor such apprentice shall be liable to said master three dollars for every day such harboring or concealing such apprentice exists, to be recovered before any court having jurisdiction.

Conflicting acts repealed.

Sec. 266. All acts and parts of acts inconsistent with the provisions of this chapter are hereby repealed.

(Senate Bill No. 5.)

CHAPTER 28.

AN ACT to amend and reenact section forty-eight of chapter fifty-four of the code, relating to the condemnation of land for railroad purposes.

[Passed February 26, 1908. In effect ninety days from passage. Approved March 3, 1908.]

SEC.

48. Condemnation of land for railroad purposes; shall not have right to condemn land along both banks of navigable streams, the taking whereof would reasonably interfere with another company; if both sides of stream be taken by company and another company desires to take one side or other, what then; when provisions of act not applicable; rights of railroad corporation as to alterations; company not to abandon use of line, etc.; may take and

SEC.

hold under any grant or ordinance made by municipal corporation interest or right such municipal corporation may have in any street, etc.; as to securing another street, etc.; county court may authorize any telegraph or telephone company to erect and maintain poles on public road; except, etc.; act not to apply to certain roads; when railroad may change its main line when railroad is serving a town.

Be it enacted by the Legislature of West Virginia:

That section forty-eight of chapter fifty-four of the code be amended and reenacted so as to read as follows:

Sec. 48. If any railroad corporation shall be unable to agree with the owner of real estate for the purchase thereof for its cor-

porate purpose, it may have such real estate condemned for such purpose under the provisions of chapter forty-two of the code: *provided, however*, that no railroad corporation shall have the right to condemn land for its corporate purposes along both banks of any of the navigable rivers of this state for parallel lines, the taking whereof for such purposes would unreasonably interfere with any other company, existing or hereafter to exist, desiring in good faith to construct a competing or main line of railroad upon or along one of the banks of such rivers. And where both sides of such rivers shall be hereafter taken, acquired or occupied by any railroad company, whether such occupancy be by virtue of purchase, gift or condemnation subject to the last proviso, and another railroad company desires in good faith to take one side or the other of such river for the purpose of building and operating a competing or main line of railroad, and said last named company and the company occupying both sides of such river are unable to agree as to location, or terms and condition upon which one side or the other of such river may be taken and used, such company desiring to acquire or to use one side of such river may condemn and take the side of such river opposite to the main line of such occupying company, if the taking thereof be reasonably necessary for its purpose, upon such terms and conditions as to use, traffic rights, trackage rights, ownership, and mutual or exclusive rights, and continuing or permanent consideration as may be prescribed by the court, after due and reasonable compensation has been ascertained and paid or secured as in other cases of condemnation provided.

Provided, if another equally practicable and available route between the principal points along and upon the route and between the termini of the proposed railroad can be acquired, then in that event the provisions of this act shall not apply, or if the work of constructing such proposed road shall not be undertaken within a reasonable time after such condemnation, or if after such construction has begun, it is not prosecuted with due and reasonable diligence, the rights acquired under this act shall be forfeited.

And every such railroad corporation owning a line or lines of railroad in this state, shall have the right at any time, for the purpose of reducing the grade or curvature, and for the purpose of otherwise improving such line or lines of railroad, to re-locate any part of its line or lines, or build cut-offs in connection therewith and the provisions of chapter forty-two of the code for acquiring real

estate by railroad companies shall apply to such line or lines as re-located, and to such cut-offs; but this provision shall not be construed as giving authority to any such railroad company to abandon the use of such line or lines, as formerly located, where the continued use thereof shall be necessary to serve industries or communities thereon. And such coporation may take and hold under any grant or ordinance made by a municipal corporation any interest or right such municipal corporation may have in any street, alley or public ground, and may in exchange therefor, in whole or in part, dedicate or otherwise secure to public use, another street, alley or parcel of ground out of real estate owned by such railroad corporation whether acquired by purchase or condemnation; or under an agreement with such municipal corporation may condemn land for use as such new street, alley or public ground, in the same manner as it may condemn land for its own use. The county court of any county may authorize any telegraph or telephone company organized under this chapter to erect and maintain telegraph or telephone poles on any land condemned or used as a public road, but not in such way as to obstruct any such road. But this section shall not apply to the National or Cumberland road. And nothing herein contained shall be construed as to prevent a railroad already serving a town or village from changing its main line from one to another side of said town or village, or near enough thereto to be reached by a switch or spur, if such switch or spur is safely built and actually used to connect such town or village with said main line and serves the public therein.

(Senate Sub. for House Bill No. 9.)

CHAPTER 29.

AN ACT to amend and reenact sections nine-a-one, nine-a-two and nine-a-four of the code of West Virginia, as last amended and reenacted by chapter fourteen of the acts of one thousand nine hundred and seven, extra session, and to add thereto section nine-a-five, relating to the protedtion of sheep, lambs, goats and kids from chasing, worrying and killing by dogs, the taxing and making personal property of dogs, and their protection as such.

[Passed February 29, 1908. In effect ninety days from passage. Approved March 6, 1908.]

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| <p>SEC.
9-a-1. Duty of assessor as to listing of dogs; list to be returned to clerk of county court; when; assessor's compensation; when dog deemed property; killing of vicious or dangerous dog.
9-a-2. Duty of county court as to levying a per capita tax on dogs.
9-a-4. Delinquent list for non-payment of per capita tax on dogs to be delivered to constable; duty of constable; powers; penalty for concealing dog for purpose of evading provisions of this section; if more than one constable in a district, who to act.</p> | <p>SEC.
9-a-5. Duty of county court upon petition of ten per cent of legal voters of a county asking a vote to be taken upon the question of taxing of dogs; if majority of votes cast on question be against imposing tax on dogs, what then; if proof can be established that dog belonging to person living in county where dog tax is not assessed, kill sheep. etc., within county where law is in force, owner of dog liable for damage done; if such collection cannot be made by law, what then.</p> |
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Be it enacted by the Legislature of West Virginia:

That sections nine-a-one, nine-a-two, and nine-a-four of the code of West Virginia, as last amended and reenacted by chapter fourteen of the acts of one thousand nine hundred and seven, extra session, relating to the protection of sheep, lambs, goats and kids from chasing, worrying and killing by dogs, and taxing and making personal property of dogs, and their protection as such, be and the same are hereby amended and reenacted so as to read as follows, and that section nine-a-five be added thereto:

Sec. 9a-1. That it shall be the duty of every assessor, annually, to list all dogs over four months 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; such list shall be returned by the assessor to the clerk of the county court of his county, on or before the time fixed for levying the county levy in each year; the assessor shall receive as compensation the sum of five cents for each dog so listed.

That it shall be lawful, if he so choose, for the owner of any dog to have the same listed by the county assessor of any county in this state, the same as all other personal property is listed and taxed; and when the owner of any such dog shall have paid the taxes assessed against the same, such dog shall be deemed property in the meaning of the law.

Any person who shall willfully, or maliciously steal, poison, wound or kill any such dog or dogs listed as personal property as aforesaid, shall upon conviction be punished as provided by law for stealing, poisoning, wounding or killing other property; and the owner of such dog or dogs, so stolen, wounded, poisoned or killed, after complying with the provisions of this act, may have a right of action in damages against any such person or persons guilty of a violation of the provisions of this act for the sum not exceeding the assessed value of such dog or dogs.

But nothing in this act shall prevent the killing of any vicious or dangerous dog off the premises and out of control of the owner; nor the killing of any dog running at large and out of the control of the owner thereof, after such owner shall have had notice and still permits such dog to run at large and out of his control; and no person shall be liable in damages or to prosecution by reason of any such killing.

Sec. 9a-2. The county court shall annually levy a per capita tax on every male dog four months old and over, of fifty cents; on every spayed female dog four months old and over, of fifty cents, and on every unspayed female dog four months old and over, of one dollar and fifty cents.

Sec. 9a-4. The court shall cause a list of all persons failing to pay the per capita dog tax assessed against them, and by the sheriff returned delinquent for non-payment of per capita dog tax, to be delivered to the constables of the district in which they reside with the number of dogs listed to each, and amount of per capita tax assessed severally against each. In case any person liable for said tax shall fail or refuse to pay such amount to the constable upon application therefor, the constable shall levy upon and take into his possession property or effects of the delinquent (including said dog or dogs so listed if such are to be found) sufficient to pay said amount and the cost of levy and sale; the first item in said sale to be the said dog or dogs so taken. In case such constable be unable to sell such dog or dogs; or unable to collect the tax thereon, by the sale of other property, he shall kill and bury such dog or dogs and shall be allowed a fee of one dollar for killing and burying each dog; such fee to be paid by the county court, out of such per capita dog tax, when a proper return has been made by such constable. The constable shall have as to said capitation dog tax, the powers of

levy and sale and of collection by any other method as is vested in the sheriff for the collection of taxes.

Any person who shall conceal a dog for the purpose of evading the provisions of this section shall pay a fine of five dollars. Where there is more than one constable in the district, the court shall decide which shall act and each constable receiving such list shall make due return to his county court, at such time as the court shall direct, of the manner in which he has discharged the duties respecting the same, and shall pay over to the sheriff any taxes or fines collected by him, taking duplicate receipts therefor, one of which he shall file with the clerk of the county court, who shall charge the sheriff with the amount of the same; each constable shall be liable for the per capita tax assessed upon every dog enumerated in such list, of which he shall fail to return a satisfactory account to the court. The constables and their securities shall be liable on their official bond, upon motion of the circuit court of their respective counties, for any money received by them which they may be liable to pay by virtue of this act.

Sec. 9a-5. The county court of any county shall, upon the petition of ten per cent of the legal 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. If a majority of all the votes cast on that question at said election be against imposing a tax on dogs, then this act shall cease to be in force in such county from and after the day on which such result is declared.

If proof can be established that any dog or dogs belonging to a person living within a county where the dog tax is not assessed and collected, kill any sheep, lambs, goats or kids within a county where the dog tax law is in force, the owner of such dog or dogs shall be liable to the owner of such sheep, lambs, goats or kids so killed, for the amount of damage caused by such dog or dogs. If such collection cannot be made by law from the owner of such dog or dogs then the county court of such county wherein the said dog or dogs belong shall be liable for the payment of such damage to be paid out of the general expense fund of said county.

(Senate Bill No. 19.)

CHAPTER 30.

AN ACT to amend and reenact sub-sections seventy-eight V, V-a V-b and V-c of chapter fifty-four of the code of West Virginia as amended and reenacted by chapter eighty-three of the acts of nineteen hundred and one, by chapter forty-five of the acts of nineteen hundred and five, and chapter seventy-nine of the acts of nineteen hundred and seven, relating to the supervision of savings banks, co-operative banking associations, trust companies, and building associations.

[Passed February 21, 1908. In effect ninety days from passage. Approved February 26, 1908.]

SEC.

78-V. Savings banks, co-operative banking associations, trust companies, etc., subject to provisions of this chapter; building and loan associations subject to state supervision.

78-V-a. Certain associations organized under laws of state to operate within state; requirements; examination by commissioner of banking; certificate of authority; transacting business without certificate, penalties; semi-annual statements as to financial condi-

SEC.

tion, etc.; making false statements; penalties.

78-V-b. Examination of books and affairs of associations; proceedings on finding institution insolvent.

78-V-c. Requirements of foreign building and loan associations, mutual investment associations and trust companies for transacting business in this state; certificate of authority; fees for certificate; doing business in state for association, etc., not holding certificate; penalty.

Be it enacted by the Legislature of West Virginia:

That sub-sections seventy-eight V, V-a, V-b and V-c of chapter fifty-four of the code of West Virginia as amended and reenacted by chapter eighty-three of the acts of nineteen hundred and one, chapter forty-five of the acts of nineteen hundred and five, and chapter seventy-nine of the acts of nineteen hundred and seven, relating to the supervision of savings banks, cooperative banking associations, trust companies and building associations, be amended and reenacted so as to read as follows:

Sub. Sec. 78V. It is further expressly provided that all savings banks, cooperative banking associations, trust companies, and all companies of like kind or character, shall be subject to the provisions of this chapter and to the supervision, examination, and control of the commissioner of banking; and that all building and loan associations doing business in this state shall be subject to state supervision, as follows:

Va. Every such association organized under the laws of this state, and desiring to operate within the state, shall file with the commissioner of banking a certified copy of its charter, constitution and by-laws. Said commissioner shall carefully examine the same and if he find that they provide a just and equitable plan for the management of the association's business, he shall issue to such association a certificate of authority permitting it to begin business. But if he finds the provisions of said charter, constitution and by-laws to be impracticable, unjust or inequitable, or oppressive to any class of shareholders, he shall withhold his certificate of authority. It shall not be lawful for any association hereafter organized under the laws of this state, for the purposes above set forth, to transact any business except the execution of its articles of incorporation, the adoption of its constitution and by-laws, and the election of directors and officers, until it shall have procured the certificate of authority above provided for, nor shall any amendment to the charter, constitution or by-laws of any such association become operative until a copy of the same shall have been filed, and the certificate of authority obtained, as above provided in regard to original charter, constitution and by-laws. Any one violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars, and at the discretion of the court may be imprisoned in the county jail not more than six months. Every building and loan association or mutual investment association organized under the laws of this state, and operating within the state, shall at least twice a year, at such times as may be designated by the commissioner of banking, file in the office of said commissioner within ten days after the receipt of his request for same a statement verified by its president or secretary and approved by three of its directors, in such form as may be prescribed by said commissioner, setting forth its actual financial condition and the amount of its assets and liabilities, and furnish such other information as to its affairs as the said commissioner may require, which reports, in the same form in which they are transmitted to the commissioner of banking, shall be printed and circulated among all the stockholders of the association. Every person who shall willfully or knowingly subscribe or make, or cause to be made, any false statements or any false entries in any book of any association, above mentioned, or exhibit false papers with the intent to deceive any person author-

ized to examine into the affairs of such association, or shall make, state or publish any false statement of the financial condition of such association, shall be deemed guilty of felony, and upon conviction thereof shall be fined not exceeding ten thousand dollars, and be imprisoned in the state penitentiary not less than one nor more than five years.

Vb. At least once in every year the commissioner of banking, either in person or by competent assistant, shall make a thorough examination of the books and affairs of every association mentioned in the next preceding sub-section of this act. He shall carefully examine all notes and mortgages and all other assets of the concern, and shall ascertain the full amount of its liabilities. He shall see that the books are kept properly posted and balanced, and the complete trial balances are struck at regular intervals. If at any time he shall find one of these institutions in an insolvent condition, he shall deal with it according to the manner prescribed for dealing with insolvent banks.

Vc. It shall not be lawful for any foreign building and loan association, or mutual investment association or trust company, to transact any business in this state directly or indirectly without first procuring a certificate of authority from the commissioner of banking. Before obtaining such certificate such foreign association shall furnish the commissioner of banking an itemized statement of its financial condition and all such other information touching its financial condition as the said commissioner may require, which statement and information shall be verified by the oath of the president or secretary of the association. Such foreign association shall also file with the commissioner of banking a certified copy of the laws of the state, territory or government under which it is incorporated; and of its constitution and by-laws and all amendments thereto, and shall appoint an attorney in each county in which it transacts or solicits business, who shall be a resident of such county; and shall file with the commissioner of banking a written instrument, duly signed and sealed, authorizing such attorney of such association to acknowledge service of process in behalf of such association, consenting that the service of process, original, mesne, or final, upon such authority shall be taken and held as if served upon the association, according to the laws of this or any other state, and waiving all claim or right of error by reason of such acknowledgment of service. If, after examination of such statements, and certified copies of

instruments, and after such association shall have complied with the provisions of this act with reference to the appointment of an attorney or attorneys, the commissioner of banking shall be satisfied that said association is solvent and that the capital and investments are secure, and that the laws, charters, articles of incorporation, constitution and by-laws governing it, afford as ample protection to the interests of its members as is afforded by the laws of this state to members of associations chartered by and doing business in this state, he may grant such an association a certificate of authority permitting it to transact business in this state, until the thirty-first day of the next succeeding December; but the same statements and the same certificates shall be renewed every year as long as such association shall continue to do business in this state; and for every certificate issued the commissioner of banking shall collect the sum of twenty-five dollars and cover the same into the treasury of the state. Any person, agent or company doing business or attempting to do business in this state for any foreign building association, mutual investment company or trust company, which shall not at the time be a holder of a valid certificate of authority as provided for in this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars nor more than one thousand dollars, for each and every offence.

(Senate Bill No. 22.)

CHAPTER 31.

AN ACT to amend and reenact section seven of chapter eight of the acts of the legislature of West Virginia, of nineteen hundred and three, relating to the examination and supervision of insurance companies and guaranty, surety and indemnity companies.

[Passed February 28, 1908. In effect ninety days from passage. Approved February 29, 1908.]

SEC.

7. Insurance companies, etc., subject to examination and supervision by the auditor.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter eight of the acts of West Virginia of

nineteen hundred and three, relating to the examination and supervision of insurance companies, guaranty, surety and indemnity companies be amended and reenacted so as to read as follows:

Sec. 7. That all companies which may be hereafter engaged in this state, in any of the classes of insurance mentioned in this act, and all title insurance, guaranty, surety and indemnity companies, and all other companies of similar character, shall be subject to the same examination and supervision, by the auditor, as now provided for insurance companies incorporated under the laws of the state of West Virginia.

(Senate Bill No. 25.)

CHAPTER 32.

AN ACT to amend and reenact chapter fifty-five of the code so as to amend the provisions thereof relating to the organization and operation of farmers' mutual cooperative insurance companies and fraternal beneficiary societies.

[Passed February 19, 1908. In effect ninety days from passage. Approved February 26, 1908.]

SEC.

1. Purposes of incorporation.
2. Number of incorporators; duty of secretary of state to prepare and print proper forms; agreement to be acknowledged; shall be filed with secretary of state.
3. Secretary of state to issue certificate or charter; duty of secretary of state as to preparation of forms for certificates or charters.
4. Provisions of chapter fifty-four of code made applicable to amendment or modification of charters.
5. Commencement of corporate existence.
6. Same or similarity of names of corporations not permitted.
7. Corporations to make and adopt by-laws; limit of amount of land that corporation can hold and possess.
8. First election of board of directors; subsequent elections, how governed.
9. Provisions of chapter fifty-two, fifty-three and fifty-four of code applicable; power of legislature as to altering or amending this chapter.
10. When charter issued under provisions of this chapter to have force and effect.

SEC.

Farmers' Mutual Cooperative Fire Insurance Companies.

11. Farmers' mutual cooperative fire insurance company defined.
12. When company may commence business; insurance commissioners' certificate; what to state and when to be issued.
13. When company may issue policies of insurance; clause to be printed on policy.
14. Duty of secretary as to notice to members; what notice to state; payment by members; action against members for neglecting or refusing to pay assessments.
15. Authorized to accumulate a surplus or emergency fund.
16. Duty of board of directors as to notifying all policy holders of time and place of annual meeting; business to be transacted; vote of policy holders; meeting of board of directors; when; what business to be transacted; regular and special meetings; the board of directors shall consist of what number of policy holders.
17. Persons whose duty is to determine character of risk shall not receive as compensation a commission upon premium; directors

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18. may determine fixed salary. Maximum amount that can be carried in any one risk; insurance contracts made to conform to what provisions.
19. Dividends; how and when paid; when policy holder not liable for assessments.
20. Companies to be examined by insurance commissioner, how often; shall have free access to books, etc.; may examine officers, etc., under oath; company to make annual report to insurance commissioner; what report to show; fee; certificate of authority required for each agent; fee; companies now doing business in this state.

Fraternal Beneficiary Societies.

21. How formed; when declared to be fraternal beneficiary association; exempt from taxation.
22. When association deemed to be operating under lodge system; when deemed to have representative form of government; unless, etc.; shall not vote by proxy.
23. Payment of death benefits, etc., qualifications for membership.
24. What to constitute contract between association and members; when and how constitution and laws may be amended.
25. Any association may create, etc., a reserve fund; how such fund may be disbursed, etc.; how funds from which benefits paid to be derived; extra assessments; may invest funds in real estate for certain purposes, also government bonds, etc.; what fund not used for expenses.
26. What shall be filed with insurance commissioner; preliminary certificate of authority; when association may issue death benefit certificates; certificate of authority, when issued; renewals; no preliminary certificate valid after one year, unless, etc.
27. Requirements of domestic associations now engaged in transacting business in this state.
28. Foreign associations shall not

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- transact business in this state without license from insurance commissioner; what required of associations before receiving license; license fee; agents required to obtain license; license fee; no license to be issued to certain associations.
29. Every foreign association before receiving license shall appoint auditor its attorney to accept service of process; statement to be filed with insurance commissioner, when and what to state.
30. Insurance commissioner or assistants shall have power to examine into affairs of any domestic association; by whom expenses of examination paid; if insurance commissioner finds that any domestic association has failed to comply with provisions of chapter, what then; duty of attorney general.
31. Insurance commissioner or assistants shall have power to examine into affairs of any foreign association; what he may accept in lieu of such examination; when insurance commissioner may revoke authority of association to do business in this state.
32. Duty of insurance commissioner if he finds that any foreign association transacting business in this state has failed to comply with provisions of this act; association may apply to court of competent jurisdiction to compel commissioner to issue certificate of authority.
33. Penalty for making false or fraudulent statements in reference to any applicant for membership; when person deemed guilty of perjury.
34. Penalty for soliciting membership in any association not licensed to do business in this state; penalty for violation of provisions of this chapter.
35. The words "association," "domestic associations," "foreign associations," "state" defined; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-five of the code be amended and reenacted so as to read as follows:

CHAPTER 55.

Of incorporated associations other than joint stock companies.

Sec. 1. Corporations (other than joint stock companies) may be formed under this chapter for benevolent associations, societies and orders, including cemetery associations, 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, law or other library associations, and all other associations, societies, and orders of like character, and for mutual fire insurance companies and fraternal beneficiary societies.

Sec. 2. Any number of persons, not fewer than five, desiring to become a corporation for any purpose named in the first section, shall sign an agreement like that prescribed in section six of chapter fifty-four, so far as it is applicable. It shall be the duty of the secretary of the state to prepare and print proper forms, and when such forms are approved by the attorney general, to furnish the same to those desiring to incorporate under the provisions of this chapter. Every such agreement shall be acknowledged by the persons signing the same in the same manner as deeds are required to be acknowledged under the laws of this state; and when so acknowledged it shall be filed with the secretary of state who shall carefully preserve and duly record the same in a book to be kept for that purpose.

Sec. 3. The secretary of state shall thereupon issue to the said incorporators a certificate or charter under the great seal of the state, according to the form prescribed in section nine of chapter fifty-four so far as such form is applicable. It shall be the duty of the secretary of state to prepare proper form or forms for such certificates or charters, to be approved by the attorney general, and when so approved the secretary of state may have the same printed or engraved.

Sec. 4. All of the provisions of chapter fifty-four relating to amendment or modification of charters or to charters issued on new agreements, shall apply to charters issued pursuant to this chapter so far as such provisions are applicable.

Sec. 5. When a charter has been issued by the secretary of state pursuant to the provisions of this chapter, the incorporators named therein and their associates and successors shall from the date of such charter, be a corporation by the name and for the purpose or object therein specified. The said charter or certified copy thereof shall be received in all courts and places as evidence of the existence of the corporation.

Sec. 6. No corporation formed under this chapter shall be allowed to use or adopt the name of any other corporation of this state; and no name shall be used or adopted which is already in use by any existing corporation of this state, nor so nearly similar thereto,

in the opinion of the secretary of state, as to lead to confusion or uncertainty.

Sec. 7. Corporations formed under this chapter shall make and adopt for their government, and to enable them to conduct and pursue their business and purpose, all necessary by-laws and regulations not inconsistent with the laws of the United States or of this state, except as otherwise provided in this chapter; but no such corporation shall be authorized or allowed to hold and possess at any one time more than five acres of land within, and not exceeding fifty acres outside, of an incorporated city, town or village.

Sec. 8. At the first election of the board of directors each member shall have one vote and no more, and at subsequent elections the number of votes to be cast by each member, and the mode and manner of casting the same, may be prescribed by the by-laws, but if not so prescribed each member may have one vote, which may be given either in person or by proxy.

Sec. 9. All the provisions of chapters fifty-two, fifty-three and fifty-four shall be applicable to corporations formed under this chapter so far as consistent with the provisions of this chapter and except as otherwise provided herein. The legislature shall have the power to alter or amend this chapter; but in no case shall such alteration or amendment effect the right of the creditors of any corporation organized under this chapter, to have its assets applied to the discharge of its liabilities, nor affect any contract or proceeding at law or in equity either for or against the corporation.

Sec. 10. No charter issued under the provisions of this chapter to a farmers' mutual cooperative fire insurance company, nor to any other fire insurance company, nor to any fraternal beneficiary society, shall have any force or effect until the same is approved in writing by the insurance commissioner of this state.

Provisions respecting mutual fire insurance companies.

Sec. 11. A farmers' mutual cooperative fire insurance company is hereby defined to mean a company incorporated under the laws of West Virginia for the purpose of insuring property against damage by fire, lightning, tornadoes, without capital stock, and which operates on the assessment plan, and is limited to one or more counties in the transaction of its business as hereinafter provided.

Sec. 12. No such company shall commence the transaction of

business until it receives from the insurance commissioner a certificate of authority, which certificate shall state that such company has complied with the provisions of this chapter. Before such certificate may be issued, such company shall file with the insurance commissioner a certified copy of its charter, together with a sworn statement of three of the incorporators that *bona fide* applications have been made by not less than twenty-five citizens for not less than twenty-five thousand dollars of insurance, of which amount no one or more risks subject to one fire shall exceed one thousand dollars, said risks to be located in the state of West Virginia.

Sec. 13. Every such company may then be authorized to issue policies of insurance, signed by its president and secretary, agreeing in the name of the company to pay all damages caused by fire, lightning or tornado to the property insured during the life of the policy. There shall be a clause plainly printed on the policy that the holder thereof (the insured) is liable for such assessments as may be necessary to pay in full his pro rata share of all losses and expenses incurred by the company.

Sec. 14. The secretary of any such company shall notify every member of the corporation by written or printed notice signed by him, stating the amount due the company from the members and the time and place and to whom it shall be paid. Such payment shall be made by the members within sixty days from the delivery of the notice, which notice may be delivered personally, or by mail, and if by mail it shall be addressed to each member at the last post office address given as shown by the company's books of record. The company shall have a lien upon the property insured to secure the payment of all such assessments and calls as may be legally made under the contract of insurance or by-laws of the company, and it may maintain an action against any member thereof to recover all assessments which he may neglect or refuse to pay when due, made upon him under the provisions of this chapter or the by-laws of the company.

Sec. 15. Such companies are authorized to accumulate a surplus or emergency fund in such amount as may be deemed advisable by its board of directors.

Sec. 16. It shall be the duty of the board of directors to notify all policy holders of the time and place of the annual meeting of such policy holders, either printing same on their policies or by notice, and to report at such annual meeting all matters per-

taining to the operations of the company, and at said annual meeting the board of directors shall be elected and such other business may be transacted by the policy holders as may legally come before them. Every policy holder in good standing having complied with the by-laws shall be entitled to one vote in person or by ballot transmitted by mail, or as provided by the by-laws in any election of directors or upon any other question. Immediately after the annual meeting of the policy holders the board of directors shall meet and transact any business before it and shall elect a president, a vice president, a secretary and treasurer, and such other officers and employees as they may deem necessary. Regular meetings of the board may be held as often as the by-laws may provide and special meetings may be held at the call of the president, secretary, or the majority of the board of directors. The board of directors shall consist of not less than six and not more than fifteen policy holders. The president and the vice president shall be members of said board.

Sec. 17. No officer or other person whose duty it is to determine the character of the risk and upon whose decision the application shall be finally accepted or rejected shall receive as any part of his compensation a commission upon the premium, but his compensation shall be a fixed salary or such share of the net profits of the corporation as the directors may determine.

Sec. 18. The maximum amount carried in any one risk or hazard subject to one fire shall not exceed one per centum of the whole amount of insurance in force at the time such risk is accepted. The insurance contracts of all such companies shall be made to conform to the provisions of this chapter and shall consist of the policy proper, constitution and by-laws of the company, all endorsements made on or attached to the policy, such parts of the application as are attached to or incorporated in the insurance contract, and any premium note or other policy obligation given by a member, all of which shall be binding on the insured as long as he remains a member or policy holder of the company.

Sec. 19. The dividends to policy holders may be paid annually or as the directors may determine, but the per cent. of dividends shall not be so large as to require the payment during any calendar year of more than fifty per cent. of the net cash surplus at the beginning of that year. No policy holder shall be liable to assessments to pay losses and expenses accruing previous to the time his policy

takes effect, nor to losses and expenses accruing after the time his policy terminates.

Sec. 20. Every such company shall be examined by the insurance commissioner or some other person appointed by him at least once in three years, and oftener if he deems it necessary. He shall have free access to the books, papers and records of the corporation, and is authorized to examine members, officers, and employees of the company under oath touching any matters pertaining to the operation of the company. Every company operating under this chapter shall make an annual report to the insurance commissioner in the month of January, showing the condition of the company on December thirty-one next preceding, on such form as he shall prescribe and under the same requirements as are made of stock fire insurance companies doing business in this state, and shall pay the insurance commissioner a fee of five dollars at the time of filing the annual statement. Every such company shall be required to obtain from the insurance commissioner a certificate of authority for each of its agents who solicits or writes insurance in this state, the fee for which shall be one dollar. Insurance companies coming within the provisions of this chapter and now doing business in this state may continue such business by satisfactory report to the insurance commissioner, who shall thereupon issue a certificate authorizing them to continue business or by organizing under and complying with the provisions as herein set forth.

Fraternal beneficiary societies.

Sec. 21. Five or more persons, citizens of this state, who desire to form a fraternal or beneficiary association as defined by this chapter, may take out a charter in the way and manner provided by law, except that no capital stock shall be required. Any corporation, society, order, or voluntary association, without capital stock and organized and carried on solely for the mutual benefit of its members and its beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government and which shall make provisions for the payment of death benefits, and which may make provisions for the payment of disability benefits, or both, is hereby declared to be a fraternal beneficiary association, and such fraternal beneficiary association shall be exempt from taxation.

Sec. 22. Any association having a supreme government or legislative body and subordinate lodges or branches, by whatever name known, into which members may be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations and prescribe ritualistic ceremonies, which subordinate lodges or branches shall be required by such associations to hold regular or stated meetings at least once in each month, shall be deemed to be operating under the lodge system. Any association shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected by the members through a delegate convention system, together with such other members as may be prescribed by its constitution and laws: *provided*, that the elective representatives shall constitute a majority in number and have not less than a majority of the votes, nor less than the votes required to amend its constitution and laws: and, *provided further*, that the meetings of the supreme or governing body and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal beneficiary society shall not vote by proxy.

Sec. 23. Every association transacting business under this chapter shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age: *provided*, that the period of life at which the payment of benefits for disability on account of old age shall commence, shall not be under seventy years, and may provide for the payment to such member as a cash dividend of a sum not exceeding the maximum named in the certificate of membership, after such certificate has been in force at least five years as provided by the laws and regulations of such association. Except as otherwise provided in this chapter, no association shall issue or offer, or promise to issue, any contract providing for the payment of any other benefit, or any contract which does not provide for the regular payment or assessment during the entire existence of the contract: *provided*, that the foregoing shall not be construed so as to prevent such associations as provide for and maintain a reserve or emergency fund, from granting such of its members as have contributed to said fund, such benefits as may be justifiable when they find themselves unable to make further pay-

ments. The payment of death benefits shall be confined to the wife, husband, family, relatives by blood or marriage or legal adoption, affianced husband or affianced wife, or to a person or persons dependent on the member, subject to the limitation and control of the association as to the designation of beneficiaries within said classes. No association shall admit to beneficiary membership any person less than sixteen nor more than sixty years of age, nor any person who has not been examined by a legally qualified practicing physician, and whose examination has not been approved by the supervising medical authority of the association as provided by the laws of the association: *provided*, that such examination shall not be required of associations paying death benefits not exceeding four hundred dollars.

Sec. 24. Every certificate issued by the association shall specify the definite amount of benefit provided by the contract except that in certificates providing for the payment of dividends, the maximum only shall be stated, and shall provide that the certificate, the constitution and laws of the association and the application for membership and medical examination, signed by the applicant, shall constitute the contract between the association and the member, and copies of the same, certified by the secretary of the association or corresponding officer, shall be received in evidence of the terms and conditions of the contract; and any changes, additions, or amendments to said charter or articles of association or constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the contract in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership: *provided, however*, that the constitution and laws of any such association shall never be amended or in any way altered except by the supreme legislative or governing body in a regular or special meeting called for that purpose, and no amendment to the constitution and laws shall in any way affect the rights of any beneficiary whose claims accrued by death or otherwise prior to the passage of such amendment.

Sec. 25. Any association may create, maintain, invest, disburse and apply a reserve, emergency, surplus or other fund in accordance with its constitution and laws for the purpose specified in section

twenty-three of this chapter. Any such association so creating, maintaining, investing, disbursing or applying any such reserve, emergency or surplus fund, shall not be held to be organized or carried on for profit within the intent of the provisions of section twenty-one of this chapter. Such funds shall be held, invested and disbursed for the use and benefit of the association, and no member or beneficiary shall have or acquire any individual rights therein, or be entitled to an apportionment or surrender of any part thereof. The funds from which benefits shall be paid and the funds from which the expenses of the association shall be defrayed shall be derived from periodical or other payments by the members of the association and accretions of said funds; and every such association shall provide in its constitution or laws that if such regular payments are insufficient to pay all matured death and disability claims in full, and provide for the creation and maintenance of the funds required by its constitution and laws, extra assessments or other payment may be levied upon the members to meet such deficiency. Any association may invest its funds in and hold real estate for lodge and office purposes, and hold any real estate acquired by foreclosure or received in satisfaction of loans, and may sell and convey the same: *provided*, that no such association shall hold any real estate acquired by foreclosure or received in satisfaction of a loan longer than ten years. Any such association may also invest its funds in government, state, county or municipal bonds, or in bonds of any school district; or in first mortgages or first mortgage bonds upon improved real estate for not exceeding fifty per centum of the actual cash value thereof at the time of making the loan. Every association shall make provision in its constitution and laws for payment by members of such association, which provisions shall state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary and disability funds and no part of the reserve, emergency or surplus funds or the net accretions of either or any of said funds, shall be used for expenses.

Sec. 26. A copy of the charter and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor, and literature to be used by such association and a bond in the sum of five thousand dollars with sureties approved by the insurance commissioner, conditioned upon the return of the advanced payment, as provided

in this section, to applicants, if the organization is not completed within one year shall be filed with the insurance commissioner, who may require such further information as he deems necessary; and if the purposes of the association conform with the requirements of this chapter and all provisions of the law have been complied with, the insurance commissioner shall issue to such association a preliminary certificate of authority authorizing said association to solicit members as hereinafter provided. Upon receipt of said certificate from the insurance commissioner, said association may solicit members and shall collect from each applicant the amount of not less than one death benefit assessment or payment, in accordance with its tables of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such association shall incur any liability other than for such advance payments, nor issue any benefit certificate, nor pay or allow, to any person any death or disability benefit until actual *bona fide* applications for death benefit certificates have been secured upon at least two hundred lives for at least one thousand dollars each, and all such applicants for death benefits shall have been regularly examined by a legally qualified practicing physician, and certificates of such examination have been duly filed and approved by the chief medical examiner of such association, nor until there be established ten subordinate lodges or branches into which said two hundred applicants have been initiated, nor until there has been submitted to the insurance commissioner under oath of the president and secretary or corresponding officers of such association, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of regular payments or assessments, which shall not be lower for death benefits than those required by the national fraternal congress table of mortality with interest at four per centum per annum; nor until it shall be shown to the insurance commissioner by the sworn statement of the treasurer or corresponding officer of such association, that at least two hundred applicants have each paid in cash at least one regular monthly payment or assessment as herein provided per one thousand dollars of indemnity to be effected, which payment in the aggregate shall amount to at least one thousand dollars, all of which shall be credited to the mortuary or disability fund on account

of such applicants and no part of which may be used for expenses. Said advanced payments shall during the period of organization be held in trust for and, if the organization is not completed within one year as hereinafter provided, returned to said applicants. The insurance commissioner may make such examination and require such further information as he may deem advisable, and upon presentation of satisfactory evidence that the association has complied with all of the provisions of the law he shall issue to such association a certificate of authority in the form adopted by him, for which the association shall pay to such insurance commissioner a fee of ten dollars. All certificates of authority provided for in this section shall be renewed annually on the first day of March. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date unless the two hundred applicants herein required have been secured and the organization has been completed as herein provided. The charter and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate unless such association shall have completed its organization and commenced business as herein provided.

Sec. 27. Any domestic association now engaged in transacting business in this state, may exercise, after the passage of this chapter, all of the rights conferred thereby, and such association already organized shall be required to reincorporate hereunder and be required to adopt the rules prescribed herein for new associations in order to avail itself of the privileges of this act; and any such association may amend its articles of association from time to time in the manner provided herein, or in its constitution or laws, and all such amendments shall be filed with the insurance commissioner, and shall become operative upon such filing. No domestic association shall transfer its membership or funds to any association not authorized by the insurance commissioner to transact business in this state; nor shall any such association transfer its membership or funds to any licensed association, unless the said contract to transfer has been approved by a two-thirds vote of the members of the supreme body of the association whose membership is proposed to be transferred; and by a two-thirds vote of the trustees or board having charge of the association proposing to take such membership.

Sec. 28. No foreign association shall transact any business in this state without a license from the insurance commissioner. Before receiving such license it shall file with the insurance commissioner a

duly certified copy of its charter or articles of association; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney as hereinafter provided; a statement under oath of its president and secretary, or corresponding officers, in the form required by the insurance commissioner and duly verified by an examination made by the supervising insurance official of its home state, of the business for the preceding year; a copy of its contract, which must show that benefits are provided for by assessments upon or other payments by the persons holding similar contracts, and shall furnish the insurance commissioner with such other information as he may deem necessary to a proper exhibit of its business and plan of working, and if he finds that it is transacting business within the provisions of this chapter, that its assets are invested in accordance with the laws of this state, and that it has the membership and qualification required of domestic associations organized under this chapter, he shall license such association to do business in this state until the first day of the succeeding March, and such license may be renewed annually, but in all cases to terminate on the first day of the succeeding March. For each such license or renewal thereof the association shall pay to the insurance commissioner a fee of ten dollars. Every agent who is employed by such association to solicit insurance in this state, shall be required to obtain a license from the insurance commissioner, for which a fee of two dollars shall be paid at the time such license is issued. No license shall be issued to any association which collects from any of its members assessments or payments for death benefits lower than those required by the fraternal congress mortality table of nineteen hundred, with interest at four per centum per annum: *provided*, that this clause shall not apply to fraternal beneficiary associations organized prior to January first, eighteen hundred and eighty-five.

Sec. 29. Every foreign association before being licensed to transact business in this state shall appoint the auditor of this state and his successors in office as its attorney to accept service of process in the manner prescribed by the laws of this state relating to foreign and non-resident corporations; and the said power of attorney shall continue in force so long as any liability remains outstanding in this state. Every association transacting business in this state shall annually on or before the first day of March file with the insurance commissioner in such form as he may require, a statement under oath of its president and secretary, or corresponding officers, of its finan-

cial conditions and standing on the thirty-first day of December next preceding, and of its transaction for the year ending on that date, and shall also furnish such other information as the insurance commissioner may deem necessary to a proper exhibit of its business and plan of working. The insurance commissioner may at other times require any further statement he may deem necessary to be made relating to such association.

Sec. 30. The insurance commissioner, or any person he may appoint shall have the power to examine into the affairs of any domestic association. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to any books, papers and documents that relate to the business of the association, and may summon and qualify as witnesses under oath, and examine its officers, agents, and employees or other person in relation to the affairs, transactions and conditions of the association. The expenses of such examination shall be paid by the association examined, but the amount thereof shall not exceed one hundred dollars.

Whenever after examination the insurance commissioner is satisfied that any domestic association has failed to comply with any provision of this chapter or is exceeding its powers; or is insolvent, he may present the facts relative thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an action in *quo warranto* in a court of competent jurisdiction, and such court shall thereupon notify the officers of such association of a hearing, and, unless it shall then appear that some special and good reason exists why such association should not be closed, said association shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such association, and shall proceed at once to take possession of the books, papers, moneys, and other assets of the association, and shall forthwith, under the direction of the court, proceed to close the affairs of the association and to distribute its funds to those entitled thereto. No such proceeding shall be commenced by the attorney general against any such association until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it on a date to be named in said notice to show cause why such proceeding shall not be commenced.

Sec. 31. The insurance commissioner, or any person whom he

may appoint, may examine any foreign association transacting or applying for admission to transact business in this state. The insurance commissioner may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the association, and may summon and qualify as witnesses under oath and examine its officers, agents and employees and other persons in relation to the affairs, transactions and conditions of the association. He may, in his discretion, accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country where such association is organized. All examinations made under the provisions of this section shall be made at the expense of the association examined, but the expenses of any examination shall not exceed two hundred dollars. If any such association or its officers refuse to submit to such examination, or to comply with the provisions of this section relating thereto, the authority of such association to transact business in this state should be revoked until satisfactory evidence is furnished the insurance commissioner relating to the condition and affairs of the association, and during such revocation the association shall not transact any business in this state.

Sec. 32. When the insurance commissioner on investigation is satisfied that any foreign association transacting business under this act has failed to comply with the provisions of this act or is insolvent, he may, after having first given reasonable notice to the chief executive officers of the said association, revoke the certificate of authority granted to it, and shall cause notification thereof to be published in one or more newspapers of general circulation, and no new business shall thereafter be done by it or its agents in this state while such default or disability continues, or until its authority to do business is restored by the insurance commissioner: *provided*, that nothing in this act shall prevent such association from applying to a court of competent jurisdiction, by *mandamus* or otherwise, to compel said insurance commissioner to issue such certificate or to restrain him from revoking same, if such court, in its discretion, should determine that said association was entitled, under the law, to have said certificate issued to it.

Sec. 33. Any person, officer, member or examining physician who shall knowingly or willingly make any false or fraudulent state-

ment in or with reference to any applicant for membership, or for the purpose of obtaining money from or benefit in any association transacting business under this chapter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this chapter, shall be guilty of perjury, and shall be punished accordingly.

Sec. 34. Any person who shall solicit membership for or in any manner assist in procuring membership in any association not licensed to do business in this state, or who shall solicit membership for or in any manner assist in procuring membership in any association not authorized as herein provided to do business as herein defined in this state, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty or more than two hundred dollars.

Any association, or any officer, agent or employee thereof neglecting or refusing to comply with or violating any of the provisions of this chapter, the penalty for which neglect, refusal or violation is not specified in this section, shall be fined not exceeding two hundred dollars upon conviction thereof.

Sec. 35. The word "association" as used in this chapter shall be taken and construed as meaning fraternal beneficiary corporation, society, order or voluntary association as defined by this chapter. The words "domestic association" shall be taken and construed as meaning a fraternal beneficiary corporation, society, order or voluntary association organized or incorporated under the laws of this state. The words "foreign association" shall be taken and construed as meaning a fraternal beneficiary corporation, society or voluntary association organized or incorporated under the laws of another state, territory, province or country. The word "state" as used in this chapter shall be taken and construed as meaning "state," "territory," "district," "country or province." All provisions of each section of

this chapter, except as otherwise provided shall be taken and construed as applying to both domestic and foreign associations.

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

(Senate Bill No. 4.)

CHAPTER 33.

AN ACT to provide for the inspection and supervision of public offices, and to establish a uniform system of public accounting, auditing and reporting.

[Passed February 26, 1908. In effect January 1, 1909. Approved March 3, 1908.]

SEC.

1. Chief inspector and supervisor of public offices; who to be; powers; assistants.
2. Duty of chief inspector as to formulating, prescribing and installing a system of accounting and reporting; when system prescribed to go into effect.
3. 4. Separate accounts to be kept.
5. Chief inspector shall require from every taxing body and public institution, financial reports; what reports to contain; to be certified and published by chief inspector; to be submitted to governor for transmittal to legislature; chief inspector to make report to governor at any time governor may order.
6. Duty of public officer or employee as to keeping of accounts of his office; penalty for refusal or neglect to perform duties; in case a public officer or employee collects or receives funds for the account of a taxing body of which he is not an officer, etc.,

SEC.

- to whom and when shall he pay over the amount so collected.
7. Power of chief inspector or person appointed by him to examine into financial affairs of every public office; penalty if person refuse to testify in regard to any matter, etc.; report of examination to be made in duplicate; if chief inspector find upon examination malfeasance, etc., in office, what then.
8. Who to pay cost of service or act performed by chief inspector under provisions of this chapter; no per diem compensation allowed chief inspector; money received by chief inspector to be deposited in state treasury; how disbursed; how cost of examination recovered, where made necessary by willful fault of any officer or employee.
9. Chief inspector may appoint assistants to perform duties required under this act.
10. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The state tax commissioner shall be *ex officio* the chief inspector and supervisor of public offices, and as such officer (hereafter called the chief inspector) he shall have the power and authority and perform the duties hereafter set forth. He shall have such assistants and clerical help and allowances as may be necessary to enable him to carry out the purposes of this act.

Sec. 2. The chief inspector shall formulate, prescribe and install a system of accounting and reporting in conformity with the pro-

visions of this act, which shall be uniform for all public offices (including district offices and justices of the peace), and for all public accounts of the same class, and which shall exhibit true accounts and detailed statements of all public funds collected, received and expended for any purpose whatever by all public officers, employees or other persons. Such accounts shall show the receipt, use and disposition of all public property, and the income (if any) derived therefrom, and of all sources of public income, and the amounts due and received from each source, all receipts, vouchers and other documents kept or that may be required to be kept and necessary to isolate and prove the validity of every transaction, and all statements and reports made or required to be made for the internal administration of the office to which they pertain, and all reports published or that may be required to be published for the information of the people regarding any and all details of the financial administration of public affairs. The system of accounting prescribed and formulated by the chief inspector and any changes made therein from time to time shall, before it becomes operative, be approved by the board of public works and such system so prescribed shall not go into effect until January one, nineteen hundred and nine, but in the meantime the chief inspector shall formulate the system.

Sec. 3. Separate accounts shall be kept for every appropriation or fund made or levied by a taxing body, showing date and manner of each payment made out of the funds provided by such appropriation or levy, the name, address and vocation of each person, organization, corporation or association to whom paid, and for what purpose paid. Separate accounts shall be kept for each department, public improvement, undertaking, institution and public service industry under the jurisdiction of every taxing body and of the state; and all service rendered by or property transferred from one department, public improvement, undertaking, institution or public service industry to another shall be paid for at its true and full value by the department, public improvement, undertaking, institution or public service industry receiving the same; and no department, public improvement, undertaking, institution or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another department, public improvement, undertaking, institution or public service industry. All unexpended balances or appropriations shall be transferred to the credit of the fund from

which originally appropriated or levied whenever the account with an appropriation is closed.

Sec. 4. Separate accounts shall be kept for every public service industry, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for services rendered to the public and the amount and character of the service rendered therefor, and the amount collected annually from private users (if any) for service rendered to them, and the amount and character of the service rendered therefor.

Sec. 5. The chief inspector shall require from every taxing body and public institution financial reports covering a full period of each fiscal year, in accordance with the forms and methods prescribed by him, which shall be uniform for all accounts of the same class. Such reports shall contain an accurate statement in summarized form of all collections made by or receipts received by the officers from all sources, all accounts due the public but not collected, and of all expenditures for every purpose, and by what authority authorized, and also:

(a) A statement of all costs of ownership and operation and of all income of each and every public service industry owned and operated by a municipality.

(b) A statement of the entire public debt of every taxing body to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, the provisions made for the payment of the debt, together with such other information as may be required by the chief inspector.

Such reports shall be certified as to their correctness by the chief inspector or by his assistant appointed by him for the purpose. Their substance shall be published in a biennial volume of comparative statistics that shall be issued for each class of accounts at the expense of the state as a public document, and shall be submitted by the chief inspector to the governor for transmittal to the legislature. The chief inspector shall make report to the governor at any time and on any subject under his jurisdiction that the governor may order.

Sec. 6. It shall be the duty of every public officer and employee to keep all accounts of his office in the form prescribed and to make all reports required under the provisions of this act by the chief inspector. Refusal or neglect to perform these duties shall subject the person offending to removal from office.

In case a public officer or employce collects or receives funds for the account of a taxing body of which he is not an officer or employce, he shall, during the Saturday of each week, pay to the proper officer of the taxing body for account of which the collection was made or payment was received, the full amount collected or received during the current week for the account of such taxing body.

Sec. 7. The chief inspector shall have power by himself, or by any person appointed by him to perform the service, to examine into all financial affairs of every public office and shall make such an examination at least once a year, if practicable. On every such examination inquiry shall be made as to the financial conditions and resources of the taxing body having jurisdiction over the appropriations and levies disbursed by the office, whether the requirements of the constitution and statutory laws of the state and the ordinances and orders of the taxing body have been properly complied with, and also inquiry into the methods and accuracy of the accounts, and as to such other methods as the chief inspector may prescribe. He or any of his assistants shall have power and may exercise all the authority to issue subpoena and compulsory process, and to direct the service thereof by any constable or sheriff, to compel the attendance of witnesses and the production of books and papers before him at any designated time and place, selected in their respective county, and to administer oaths. If any person shall refuse to appear before said chief inspector or his assistants when required so to do or shall refuse to testify in regard to any matter or refuse to produce any books or papers in his possession or under his control, he shall be guilty of a misdemeanor and upon conviction therefor shall be fined not more than one hundred dollars and imprisoned not more than six months. Wilful false swearing in such examinations shall be perjury and shall be punishable as such. A report of each examination shall be made in duplicate, one copy to be filed in the office of the state tax commissioner and one in the auditing department of the taxing body.

If any such examination discloses misfeasance, malfeasance or nonfeasance in office on the part of any public officer or employce, a certified copy of the report shall be filed with the proper legal authority of the taxing body for such legal action as is proper in the premises. Refusal, neglect or failure on the part of the proper legal authority of the taxing body to take prompt and efficient legal action to carry into effect the findings of any such examination, or to prosecute the same to a final conclusion, shall give to the chief inspector

the right to institute the necessary proceedings or to participate therein, and to prosecute the same in any of the courts of the state, to a final conclusion.

Sec. 8. The cost of any service or act performed by the chief inspector under the provisions of this act as to any county or district office, officer or institution shall be paid by the county court of the county; the cost thereof as to any board of education shall be paid by such board; and the cost thereof as to any municipal corporation shall be paid by the authorities thereof. But no per diem compensation shall be allowed to the chief inspector or his deputy for his services under the provisions of this act. The chief inspector shall render to the tribunal liable for such cost a statement thereof as soon after the same was incurred as practicable, and it shall be the duty of such tribunal to allow the same and cause it to be paid in the manner that other claims and accounts are allowed and paid by it. All money received by the chief inspector from this source shall be deposited by him in the state treasury to the credit of the chief inspector, and shall be credited by the auditor and state treasurer to the account of the chief inspector and disbursed in the same manner as appropriations made by the legislature for his office are disbursed, and such money is hereby appropriated for that purpose. The cost of any examination, service or act by the chief inspector made necessary, or such part thereof as was made necessary, by the wilful fault of any officer or employee, shall be recovered by the chief inspector from such person, on motion on ten days' notice in any court having jurisdiction.

Sec. 9. Any duty or act required by this act to be performed by the chief inspector may be performed with like effect by any deputy or assistant appointed by the chief inspector.

Sec. 10. All acts and parts of acts coming within the perview of this act and inconsistent therewith are hereby repealed.

(Senate Bill No. 2.)

CHAPTER 34.

AN ACT concerning the compilation of the code of West Virginia and supplement thereto by the West Publishing Company, and to declare such compilations competent evidence of the law in all courts of this state.

[Passed February 26, 1908. In effect from passage. Approved February 26, 1908.]

SEC.

1. The general laws of the state as compiled by the West Publishing Company declared competent evidence of acts, etc., in all courts of state.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The general laws of the state of West Virginia, as compiled by the West Publishing Company, and entitled the "Code of West Virginia 1906" and "Code of West Virginia Supplement 1907," are hereby declared competent evidence of the several acts and resolutions therein contained in all courts of this state without further proof or authentication, and shall be known and cited as "Code, 1906," and "Code, Supp. 1907."

(House Bill No. 30.)

CHAPTER 35.

AN ACT making appropriations of public money to pay general charges upon the treasury and providing for the transfer of certain funds.

[Passed March 3, 1908. In effect from passage. Approved March 9, 1908.]

SEC.

1. Appropriation to pay general charges upon the state treasury for the fiscal year ending Sept. 30th, 1908.

SEC.

2. Authorizing the commission of the Jamestown Exposition to transfer certain sum of money to discharge certain obligations.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and hereby are appropriated out of the state fund for the fiscal year ending September thirty, one thousand nine hundred and eight, except as hereinafter provided, the following sums for the purposes as follows:

State highway inspector.

For office furnishings and contingent expenses, four hundred dollars.

For stenographer and other office help, five hundred dollars.

For the publication and circulation of road bulletins, six hundred dollars.

For conducting road institutes, one thousand dollars.

For salary of inspector for the first five months of the fiscal year beginning October one, one thousand nine hundred and eight, eight hundred and thirty-three dollars and thirty cents.

For stenographer and other office help during such period, two hundred and fifty dollars, and

For contingent expenses during such period, one hundred dollars.

Bureau of labor.

For services of stenographer and other clerical services, six hundred dollars.

For contingent expenses, four hundred and fifty dollars.

For services of stenographer and other clerical services for the first six months of the fiscal year beginning October one, one thousand nine hundred and eight, four hundred and fifty dollars, and

For contingent expenses during such period, three hundred and fifty dollars.

Secretary of state.

For additional contingent expenses of secretary of state, six hundred dollars.

For distributing the acts and journals to the members of the legislature for the extra session of nineteen hundred and eight, two hundred and fifty dollars, to be paid upon the order of secretary of state.

West Virginia asylum.

For wells, water supply and fire protection, one thousand five hundred dollars.

West Virginia hospital for the insane.

For completing the water works system and fire equipment at the West Virginia hospital for the insane at Weston, ten thousand dollars, payable out of the revenues of the current fiscal year. But the plans, specifications and contracts concerning the same shall be approved by the board of public works before the work is begun.

For the purpose of erecting a building or buildings at the West

Virginia hospital for the insane at Weston, for dining hall, kitchen, and other purposes, as named in the report of the special investigating committee printed in the journal of the house of delegates of January thirty, there is hereby appropriated the sum of thirty thousand dollars out of the revenues of the current fiscal year: *provided*, that the character and necessity of said improvements at said hospital shall be subject to the judgment of the board of public works after they have made full investigation of the matter, and all plans, specifications and contracts for such improvements shall be subject to the approval and ratification of said board; that the cost of said improvements, after they are finished and ready for use, shall not exceed the sum of seventy-five thousand dollars; and the said board will make report of their action hereunder to the next session of the legislature.

Colored orphans home and industrial school at Huntington.

For the maintenance of inmates two thousand dollars, one thousand dollars thereof payable in the year nineteen hundred and eight, and one thousand dollars payable in the year nineteen hundred and nine.

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

To pay the per diem of members of the state board of education, five hundred dollars.

To pay expenses to the members, etc., two hundred dollars.

To be disbursed under the direction of state superintendent of schools.

For the purpose of paying the per diem and actual expenses of the select committee appointed under and pursuant to House Substitute for Senate Joint Resoution No. 21, passed at the regular session of the legislature of one thousand nine hundred and seven, and for the payment of clerical and stenographic assistants, there is hereby appropriated the sum of five thousand dollars or so much thereof as may be needed, the same to be expended under the direction and subject to the approval of the board of public works.

For the purpose of paying the per diem and actual expenses of the select committee appointed and pursuant to Substitute for House Concurrent Resolution No. 5, and House Joint Resolution No. 19, passed at the regular session of the legislature of one thousand nine

hundred and seven, and for the payment of clerical and stenographic assistants there is hereby appropriated the sum of five thousand dollars or so much thereof as may be needed, the same to be expended under the direction and subject to the approval of the board of public works.

Miscellaneous expenses.

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

To pay the Charleston Home Telephone Company, for rental on telephone in office of the clerk of the house of delegates, twenty-two dollars and fifty cents.

To pay C. L. Topping, for work as clerk of the house of delegates after the close of the regular session of one thousand nine hundred and seven, ninety dollars.

To pay Elvin Whittington, for thirty days' work as extra janitor after the close of the regular session of one thousand nine hundred and seven, ninety dollars.

To pay W. F. Carter, for aligning and cleaning five typewriting machines and furnishing ribbons for the same, forty-three dollars and seventy-five cents.

To pay David Dick, for window sash and ventilators, sixty-two dollars and eighty cents.

To pay P. A. Donovan, amount due on account overlooked by the house finance committee of the session of one thousand nine hundred and seven, one hundred and forty-one dollars.

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

To pay the West Publishing Company, for codes and supplements, four hundred and fifty-one dollars and fifty cents.

To pay the American Steam Laundry, for washing roller towels, ninety-one cents.

To pay Noyes, Thomas & Company, for roller towels, twenty dollars and fifty cents.

To pay G. M. Clinedinst, for washing windows, forty-five dollars.

To pay Sterrett Brothers, for oil cloth, two dollars and ten cents.

To pay Shelton Drug Company, for supplies, twenty-four dollars and fifteen cents.

To pay Coffey Plumbing Company, for repairs, fifteen dollars and eighty-five cents.

To pay N. S. Burlew, for two locks, eighty-two cents.

To pay Lewis, Hubbard & Company, for brooms, three dollars and seventy-five cents.

To pay Jennie Cantrell, for washing towels, twenty-five dollars.

To pay P. A. Donovan, for burners, globes, mantels and supplies, one hundred and one dollars and ten cents.

To pay Mead Bros., for carpet sweepers, eleven dollars.

To pay adjutant general's office, for flags, thirty-nine dollars and eighty cents.

To pay the Coffey Plumbing Co., for repairing leaks in the house of delegates, seventy-five cents.

To pay David Dick, for repairing desks and chairs, for labor of carpenters, two iron plate screens and commissions, six dollars and fifty-one cents.

To pay J. A. deGruyter, for use of typewriter in speaker's room, five dollars.

To pay Nella Lorburg, for use of typewriter, session of one thousand nine hundred and seven, ten dollars.

To pay Nella Lorburg, use of typewriter for special session, one thousand nine hundred and eight, five dollars.

To pay the expenses and per diem of the members of the committee to locate a site for a state institution for the care, instruction and cure of persons suffering with tuberculosis, the sum of one thousand dollars, or so much thereof as may be necessary.

To pay John T. Harris, for services rendered legislature of nineteen hundred and seven, ninety dollars.

To pay the Baltimore & Ohio Railroad Company, for expenses incurred in connection with the care of the Syrian leper, two hundred and nine dollars and fifteen cents.

To pay J. H. Hudson, for making keys, fifteen dollars and sixty cents.

To pay Southern Bell Telephone Company for senate telephone service, fifty dollars.

To pay Banner Agency for rent of one typewriter for judiciary committee, four dollars.

To pay John T. Harris, balance on supplies for senate, twenty-four dollars and sixty-five cents.

Sec. 2. From the fund heretofore appropriated for the representation of the state of West Virginia at the Jamestown Ter-Centennial exposition and apportioned by the legislature in the act authorizing

such representation for the historical exhibit, the sum of one thousand and fifty dollars is hereby transferred and added to the fund apportioned for the coal exhibit; and the West Virginia commission for the Jamestown exposition is hereby authorized to use this additional amount in discharging its obligations for the coal exhibit.

(Senate Bill No. 51.)

CHAPTER 36.

AN ACT making appropriations of public money to pay members of the legislature, in pursuance to the forty-second section of the sixth article of the constitution of West Virginia.

[Passed March 3, 1908. In effect from passage. Approved March 3, 1908.]

SEC.

1. Appropriation to pay members and officers, etc., of the legislature for the extraordinary session, 1908; directing the auditor as to payment.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be and are hereby appropriated for the fiscal year ending September thirtieth, one thousand nine hundred and eight, the following sums of money for the payment of the members and the officers of the legislature, for the extraordinary session for the year one thousand nine hundred and eight.

Legislative department—Senate.

Per diem of members, four thousand one hundred and seventy-six dollars.

Per diem of president of senate, two hundred and sixteen dollars.

Per diem of clerk, three hundred and sixty dollars.

Per diem of officers and attaches, twelve thousand four hundred and twenty dollars.

Mileage of members, one thousand one hundred and twenty-three dollars and sixty cents.

Legislative department—House of delegates.

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

three thousand three hundred and fifty-four dollars and forty cents.

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

To pay the clerk of the house of delegates, three hundred and sixty dollars.

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

To pay the engrossing clerks, four hundred and thirty-two dollars.

To pay the printing clerks, four hundred and thirty-two dollars.

To pay the journal clerks, four hundred and thirty-two dollars.

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

To pay the door-keeper, one hundred and forty-four dollars.

To pay one assistant door-keeper, one hundred and forty-four dollars.

To pay one gallery door-keeper, one hundred and forty-four dollars.

To pay the stenographer to the speaker, two hundred and sixteen dollars.

To pay two stenographers to the house, four hundred and thirty-two dollars.

To pay the librarian, one hundred and forty-four dollars.

To pay the sergeant-at-arms, one hundred and eighty dollars.

To pay the assistant sergeant-at-arms, one hundred and eighty dollars.

To pay two cloak room keepers, two hundred and eighty-eight dollars.

To pay one mailing and banking page, one hundred and eight dollars.

To pay three journal pages, three hundred and twenty-four dollars.

To pay six floor pages, four hundred and thirty-two dollars.

To pay J. M. Lynn, janitor, for services during the present session, one hundred and eight dollars.

To pay one night watchman, one hundred and forty-four dollars.

The auditor is hereby authorized to issue his warrants upon the treasury for such amounts as are or may become due to the several members, officers and attaches of the senate and house of delegates upon the proper requisition of the clerk of the senate and the sergeant-at-arms of the house of delegates, respectively.

HOUSE JOINT RESOLUTION NO. 8.

(Adopted February 18, 1908.)

Resolved by the legislature of West Virginia, two-thirds of all the members elected to each house thereof agreeing thereto:

That the following amendment to section twenty-three of article eight of the constitution of this state be and the same is hereby agreed to, to-wit:

That section twenty-three of article eight of the constitution of the state of West Virginia be amended so that the same shall read as follows:

Sec. 23. The commissioners shall be elected by the voters of the county, and hold their office for the term of six years, except that at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner as they may determine, one of their number, who shall hold his office for a term of two years, one for four years and one for six years, so that one shall be elected every two years. But no two of said commissioners shall be elected from the same magisterial district. And if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district, who shall receive the next highest number of votes, shall be declared elected. Said commissioners shall annually elect one of their number as president, and each shall receive four dollars per day for his services in court, to be paid out of the county treasury: *provided*, that such compensation may be increased in any county by the assent of a majority of the votes cast on the question at any general or special election.

HOUSE JOINT RESOLUTION NO. 10.

(Adopted February 17, 1908.)

Appointing a committee to locate a site for a state institution for the care, instruction, and cure of persons suffering with tuberculosis.

WHEREAS, The legislature of West Virginia recognizes the fact that the strength of the state is in direct ratio to the mental and physical

strength of her citizens; that it is her duty to protect her citizens against all things that destroy the life, health and happiness of the people, that the good citizens of West Virginia have the same charitable regard for the weak and unfortunate sufferers among them that the citizens of the other states have; that the state, with all her charitable institutions, has thrown her sheltering arms around the insane, the deaf, the dumb, the blind and the imbecile; but the large and increasing numbers—said now to be ten thousand—of helpless sufferers from the “great white plague”, tuberculosis, have never had the hand of state charity extended to them, nor has any effort been made to check this dread disease, and that other states are making successful gains against this terrible malady by their incessant battling with it:

AND, WHEREAS, It is believed, from statistics, that this disease is increasing in this state, and is likely to still further increase unless effective steps be taken to control and prevent it; that said disease is both preventable and curable; and that it is just and necessary to assist those afflicted with it, and to protect the other citizens of the state against its dangers,

Therefore, Be it resolved by the Legislature of West Virginia,

That in behalf of the sufferers from tuberculosis in this state, and in defense of those who thus far have escaped this said dread disease, that steps be taken to create a state institution for the care, instruction and cure of people of this state suffering with the said malady, and that a committee of five be appointed—three by the speaker of the house and two by the president of the senate, two of whom shall be physicians—with instructions to visit a number of the most practical and successful eastern state institutions for the care and treatment of tubercular patients, and familiarize themselves with the construction and operation of the same. Said committee shall also select the most desirable site for an institution of the kind for West Virginia, and confer with the state board of health in making said selection. Said committee shall take an option on the site so selected, if obtainable at a reasonable price, to hold good until the final adjournment of the legislature of nineteen hundred and nine. Said committee shall make report to the said legislature of nineteen hundred and nine, with such recommendations as it may deem wise, and such data that it may procure, with the draft of a bill to cover all

recommendations made by it, and to secure the care of sufferers affected with tuberculosis who are citizens and residents of this state, and to protect other citizens of the state from the said disease. Said committee shall also confer with the West Virginia Anti-Tuberculosis League, said committee shall receive as compensation for the services rendered the sum of five dollars per day each, and necessary traveling expenses.

HOUSE JOINT RESOLUTION NO. 13.

(Adopted February 5, 1908.)

Authorizing the sergeant-at-arms of the house and the clerk of the senate to issue warrants to certain attaches.

Resolved, That the sergeant-at-arms of the house, and the clerk of the senate, are hereby directed and authorized to draw warrants upon the auditor for the following attaches:

H. H. Noel, William Ayers, Sam Stephenson, Elvin Whittington, B. N. Sisson, C. E. Amos, H. A. Jefferson, S. B. Wintz, special janitor force for the house and the senate; salary three dollars per day. The sergeant-at-arms of the house to draw warrants for one-half, or one dollar and fifty cents per day, and the clerk of the senate to draw warrants for the other half, or one dollar and fifty cents per day, on demand of attaches.

SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 25.

(Adopted February 21, 1908.)

Raising a committee to consult with the board of public works concerning the Virginia debt.

WHEREAS, The defense of this state in the equity suit of the commonwealth of Virginia vs. West Virginia, is now vested in the attorney general and the board of public works of the state; and,

WHEREAS, Said attorney general and board have expressed a wish

that a non-partisan committee of citizens and property holders be appointed with whom they can advise and take counsel as to the matters involved in said suit; therefore,

Be it Resolved, That John W. Mason and William G. Bennett of the first congressional district, Frank M. Reynolds and John J. Cornwall of the second congressional district, William A. MacCorkle and Samuel Dixon of the third congressional district, E. M. Gilkeson and George W. Curtin of the fourth congressional district, C. W. Campbell and Isaac T. Mann of the fifth congressional district, and Nathan Goff, Johnson N. Camden, John K. Thompson and F. B. Enslow at large, be and they are hereby appointed such committee; and it shall be their duty to advise with the board of public works of the state and make such recommendations as they may deem best to protect the interests and welfare of the people of the state in said matters.

The members of said committee shall take the oath provided by the constitution, which shall be filed with the governor. It shall convene on the call of the governor, and shall make report to the legislature from time to time of its proceedings. Vacancies in said committee by death, resignation, failure or refusal to serve or otherwise shall be filled by the board of public works.

HOUSE CONCURRENT RESOLUTION NO. 2.

(Adopted February 7, 1908.)

WHEREAS, The enforcement of laws for the control of prohibition of the beverage traffic in intoxicating liquors has been largely ineffective by reason of the interstate commerce laws which permit shipments and carriage of such liquors without regard to state laws, and the policy of the federal government in granting liquor license tax certificates to any person or place without regard to whether or not a local license or permit has been issued to such person or place; and,

WHEREAS, There are now pending in the congress of the United States various bills for the purposes of giving the states entire police control of the traffic in intoxicating liquors within their borders and of prohibiting the granting of liquor license tax certificates to persons and places where local permits or licenses have not first been issued to such persons or places; and,

WHEREAS, We desire such protection given to and power conferred upon the state of West Virginia.

Therefore, be it resolved by the house of delegates, the senate concurring therein,

That we petition the congress of the United States for the passage of such law; and that our senators and representatives in congress be requested to use their best efforts to secure some such enactment.

Resolved, That properly authenticated copies of this petition be mailed by the clerk of the house of delegates, immediately upon its adoption, to each of our senators and representatives in the congress and to the president of the senate and the speaker of the house of representatives for transmission to their respective bodies.

HOUSE CONCURRENT RESOLUTION NO. 3.

(Adoped February 11, 1908.)

In reference to the public services and death of Charles E. Haddox, late warden of the West Virginia penitentiary.

WHEREAS, It is with profound sorrow that the members of the legislature now in extraordinary session assembled, learn of the untimely death of Charles E. Haddox, late warden of the state penitentiary, which occurred at Battle Creek, Michigan, on the seventh day of February, nineteen hundred and eight; and,

WHEREAS, He had occupied the position of warden of the state penitentiary from the year nineteen hundred and one until the time of his death with marked ability and unswerving fidelity, and by his untiring efforts made that institution one of the best equipped and efficiently managed prisons in the United States; and,

WHEREAS, His reforms in the equipment and government of prisons gave him a world-wide reputation, and led to his election as president of the National Prison Congress, which position he held at the time of his death; therefore,

Be it resolved by the legislature of West Virginia.

That his public services have been of inestimable value to this

state and to the unfortunate men and women whose conditions he sought to better; and that in his demise the country has lost one of its most eminent and learned prison reformers and the state a public servant of the highest order of integrity and ability.

Resolved, further, that an engrossed copy of this resolution be sent to the widow of the deceased by the clerk of the senate and the clerk of the house.

HOUSE CONCURRENT RESOLUTION NO. 4.

(Adopted March 3, 1908.)

Resolved by the house of delegates, the senate concurring therein:

That a joint committee be appointed, consisting of two members on the part of the senate, and three members on the part of the house, to wait upon his excellency, the governor, and inform him that the legislature is now ready to adjourn *sine die*, and ask him if he has any further communication to make.

SENATE JOINT RESOLUTION NO. 7.

(Adopted March 2, 1908.)

Proposing an amendment to section four of article four of the constitution of West Virginia.

Resolved by the legislature of West Virginia, two-thirds of the members elected to each house agreeing thereto:

That the following be and the same is proposed as an amendment to the constitution of this state, to-wit:

That section four of article four of said constitution as it now is be stricken out, and the following be inserted therein in lieu thereof:

Sec. 4. No person, except citizens entitled to vote, shall be elected to any state, county or municipal office; but the governor and judges must have attained the age of thirty, and the attorney-general and senators the age of twenty-five years, at the beginning of their respective terms of service; and must have been citizens of the state for five years next preceding their election or appointment, or be citizens at the time this constitution goes into operation.

SENATE JOINT RESOLUTION NO. 8.

(Adopted February 3, 1908.)

Concerning amendments to the postal laws.

Resolved by the senate of West Virginia, the house of delegates concurring therein,

That the senators and representatives in congress from West Virginia use every endeavor to procure such amendments to the postal laws and regulations as will admit the journals of proceedings of state legislatures, and the bills, resolutions, etc., thereof, to the United States mails at second class rates.

Resolved, That a copy of this resolution be forwarded to the United States senators and members of congress from West Virginia and request their prompt action.

SENATE JOINT RESOLUTION NO. 16.

(Adopted February 28, 1908.)

Requesting the representatives in congress of the United States from West Virginia to favor the creation of a National Bureau of Mines.

WHEREAS, There have been a series of mine explosions in various states of the Union, entailing large loss of life; and,

WHEREAS, There is wide diversity of opinion as to the primary causes of such explosions; and,

WHEREAS, There appear to be many technical questions involved upon which no state of the Union has as yet made practical demonstrations; therefore, in order that these important questions may be solved and full information be disseminated for the guidance of our legislative bodies in enacting efficient laws; be it

Resolved, That our senators and representatives in congress from West Virginia are requested to use their best endeavors to secure the prompt passage of legislation providing for the creation of a national bureau of mines which shall have for its principal purpose the making of such investigations and experiments as will enable the authori-

ties in this and other states to adopt such additional laws and regulations as may result in the minimizing or prevention of mine accidents.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted January 28, 1908.)

Resolved by the senate of West Virginia, the house of delegates concurring therein,

That a committee of two on the part of the senate and three on the part of the house of delegates, be appointed to jointly wait upon the governor and notify him that the legislature is now in special session pursuant to his proclamation, dated January third, nineteen hundred and eight, with a quorum of each house present, and awaits any communication he may desire to make. The members of said committee to be appointed respectively by the president of the senate and the speaker of the house.

SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted January 28, 1908.)

Resolved by the senate of West Virginia, the house of delegates concurring therein,

That the joint rules of the last regular session of the legislature governing the senate and house of delegates be adopted as the joint rules governing this special session, until otherwise ordered.

SENATE CONCURRENT RESOLUTION NO. 5.

(Adopted March 2, 1908.)

Requesting the senators and representatives representing this state in the congress of the United States to use their best efforts to se-

cure the passage of what is known as the Appalachian Forest Bill.

WHEREAS, The forests of the country are rapidly disappearing, and owing to the fact that the hard wood supply in many states from which the greater part of the supply has been taken, has become exhausted and the states, not before drawn upon, have been forced to submit their own impoverished stock to the axe that the public demand might be satisfied; and,

WHEREAS, We believe that the preservation of our forests would protect the soil, conserve the water that gives life to the crops, and protect the birds which prey upon the insects which destroy the crops, besides growing valuable timber for future generations; therefore be it

Resolved by the legislature of West Virginia, both the senate and the house of delegates concurring herein:

That the senators and representatives, representing this state in the congress of the United States, be requested to use their best efforts to secure the passage of what is known as the Appalachian Forest Bill now before congress.

Resolved: That copies of these resolutions be transmitted to the clerks of the senate and the house of representatives and to each of said senators and representatives.

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