

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

THIRTY-FIRST REGULAR SESSION
1913



TRIBUNE PRINTING COMPANY,
Charleston, West Va.



List of Members and Officers of the Legislature of West Virginia.

REGULAR SESSION, 1913.

SENATE

President—SAMUEL V. WOODS, Philippi.
 Clerk—JOHN T. HARRIS, Parkersburg.
 Chief Assistant—HOMER GRAY, Wheeling.
 Sergeant-at-Arms—JAMES R. MEHEN, Parkersburg.
 Door-Keeper—JAMES M. DORSEY, Clay.

District	Name.	Postoffice.
First	*Oliver S. Marshall (R.) Jullan G. Wearne (R.)	New Cumberland, Hancock County. Wheeling, Ohio County.
Second	*A. E. McCuskey (D) G. B. Slemaker (D.)	Pine Grove, Wetzel County. Sistersville, Tyler County.
Third	*Joseph Gray (R.) W. G. Peterkin (D.)	Elizabeth, Wirt County. Parkersburg, Wood County.
Fourth	*R. A. Blessing (R.) B. A. Smith (R.)	Pt. Pleasant, Mason County. Vicars, Roane County.
Fifth	*R. Dennis Steed. (R) R. A. Salmons (D.)	Hamlin, Lincoln County. Winfield, Putnam County.
Sixth	*James A. Strother (R.) M. Z. White (R.)	Welch, McDowell County. Williamson, Mingo County.
Seventh	*C. C. Coalter (R.) D. E. French (D.)	Hinton, Summers County. Bluefield, Mercer County.
Eighth	*E. T. England (R.) Wm. A. MacCorkle (D.)	Logan, Logan County. Charleston, Kanawha County.
Ninth	*Dr. James McClung (R.) John A. Preston (D.)	Richwood, Nicholas County. Lewisburg, Greenbrier County.
Tenth	*Fred L. Fox (D.) Robert F. Kidd (D.)	Sutton, Braxton County. Glenville, Gilmer County.
Eleventh	*John L. Hatfield (D.) A. Hood Phillips (D.)	Morgantown, Monongalia County. Grafton, Taylor County.
Twelfth	*George E. White (R.) George W. Bland (D.)	Weston, Lewis County. Clarksburg, Harrison County.
Thirteenth	*N. G. Kelm (R.) Samuel V. Woods (D.)	Elkins, Randolph County. Philippi, Barbour County.
Fourteenth	*A. Bliss McCrum (R.) O. A. Hood (R.)	Kingwood, Preston County. Keyser, Mineral County.
Fifteenth	*G. K. Kump (D.) Gray Sliver (D.)	Romney, Hampshire County. Inwood, Berkeley County.

R. Republican.
 D. Democrat.
 *Hold-over Senators.

Standing Committees of the Senate.

ON PRIVILEGES AND ELECTIONS.

Messrs. Marshall (*Chairman*), Hearne, Gray, Smith, Steed, MacCorkle, Kidd, Silver, Bland and Fox.

ON FINANCE.

Messrs. Silver (*Chairman*), MacCorkle, Kidd, Slemaker, Kump, Hearne, White (of Mingo), Coalter, Blessing and Keim.

ON THE JUDICIARY.

Messrs. England (*Chairman*), Marshall, Strother, McCrum, White (of Lewis), French, MacCorkle, Bland, Kump and Fox.

ON RAILROADS.

Messrs. Slemaker (*Chairman*), Kidd, Kump, Peterkin, Hatfield, McCrum, Steed, White (of Lewis), White (of Mingo) and Gray.

ON MINES AND MINING.

Messrs. White (of Mingo) (*Chairman*), Hearne, Keim, Hood, McClung, Fox, Hatfield, Kidd, Phillips and MacCorkle.

ON CLAIMS AND GRIEVANCES.

Messrs. Blessing (*Chairman*), Hearne, Smith, England, Steed, French, Bland, Phillips, Salmons and Slemaker.

ON IMMIGRATION AND AGRICULTURE.

Messrs. Phillips (*Chairman*), Silver, Kidd, Fox, Kump, Hood, Smith, Marshall, Steed and Hearne.

ON PUBLIC PRINTING.

Messrs. Bland (*Chairman*), Peterkin, French, Hatfield, Phillips, Hood, Keim, McClung, Steed and Smith.

ON MEDICINE AND SANITATION.

Messrs. McCuskey, (*Chairman*), Kump, Hatfield, Bland, French, Smith, McClung, Blessing, Gray and Coalter.

ON FORFEITED AND DELINQUENT LANDS.

Messrs. Kidd (*Chairman*), Fox, Phillips, French, Bland, White (of Mingo), England, Blessing, Hearne, and White (of Lewis.)

ON PENITENTIARY.

Messrs. Hearne (*Chairman*), Coalter, Smith, White (of Lewis), Keim, Fox, Kidd, Hatfield, Peterkin and Kump.

ON INSURANCE.

Messrs. Peterkin (*Chairman*), Preston, Bland, Phillips, Fox, Keim, McClung, Hood, Smith and Gray.

ON THE MILITIA.

Messrs. McCrum (*Chairman*), Gray, White (of Lewis), Strother, Coalter, French, Kump, Hatfield, Fox and Phillips.

ON LABOR.

Messrs. Blessing (*Chairman*), Marshall, Strother, McClung, Smith, Kidd, McCuskey, Silver, Slemaker and Bland.

ON FEDERAL RELATIONS.

Messrs. Fox (*Chairman*), Peterkin, Kump, Salmons, Kidd, Gray, Strother, McCrum, England and Steed.

ON EDUCATION.

Messrs. Steed (*Chairman*), Marshall, White (of Lewis), Blessing, Hearne, Bland, Peterkin, French, Kump and Phillips.

ON COUNTIES AND MUNICIPAL CORPORATIONS.

Messrs. Marshall (*Chairman*), White (of Lewis), Hearne, McClung, Blessing, MacCorkle, Silver, Salmons and Kump.

ON ROADS AND NAVIGATION.

Messrs. Kump (*Chairman*), Silver, Preston, Peterkin, MacCorkle, Strother, White (of Mingo), Smith, McClung and Hearne.

ON BANKS AND CORPORATIONS.

Messrs. Salmons (*Chairman*), Silver, Hatfield, Phillips, Fox, White (of Mingo), Keim, McClung, Hearne and Gray.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.

Messrs. Hearne (*Chairman*), McClung, Coalter, Gray, Hood, French, Hatfield, Kidd, Peterkin and Phillips.

TO EXAMINE CLERK'S OFFICE.

Messrs. Strother (*Chairman*), Smith, McCrum, White (of Lewis), Blessing, Peterkin, Phillips, Salmons, Hatfield and Fox.

ON PUBLIC LIBRARY.

Messrs. Keim (*Chairman*), Hood, White (of Mingo), McClung, Blessing, Kump, Peterkin, Phillips, Hatfield and Kidd.

ON ENROLLED BILLS.

Messrs. Peterkin (*Chairman*), French, Fox, Hatfield, Kump, Hearne, Hood, Keim, White (of Lewis) and Steed.

ON ATTACHES.

Messrs. MacCorkle (*Chairman*), French, McCrum, White (of Mingo) and Mr. President.

ON RULES.

Messrs. Kidd (*Chairman*), Preston, Marshall, Strother and Mr. President.

ON TEMPERANCE.

Messrs. Preston (*Chairman*), Peterkin, Bland, Fox, Kidd, McClung, McCrum, Steed, Blessing and Hood.

ON FORESTRY AND CONSERVATION.

Messrs. Marshall (*Chairman*), Hood, McClung, Keim, McCrum, Fox, Kidd, Preston, Kump and Hatfield.

ON THE VIRGINIA DEBT.

Messrs. MacCorkle, (*Chairman*), Kump, Peterkin, Silver, Hatfield, Marshall, Hearne, White (of Mingo), Blessing and Steed.

HOUSE OF DELEGATES

Speaker—WILLIAM T. GEORGE, Phillippi.
 Clerk—JOHN GUY PRICHARD, Fairmont.
 Sergeant-at-Arms—EDGAR R. STATT, Spencer.
 Door-Keeper—W. U. FLETCHER, Middlebourne.

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

County.	Name.	Postoffice.	Occupation.
1. Barbour....	Wm. T. George (R.)	Phillippi.....	Lawyer.
2. Berkeley....	C. M. Seibert (D.)	Martinsburg.....	Lawyer.
	W. B. Lingamfelter (D.)	Hedgesville.....	Farmer.
1. Boone.....	James Allen (D.)	Greenview.....	Farmer.
2. Braxton....	M. T. Morrison (D.)	Sutton.....	Physician.
	John L. Rhea (D.)	Flatwoods.....	Merchant.
1. Brooke.....	John R. Elson (D.)	Wellsburg.....	Druggist.
3. Cabell.....	H. Clay Warth (D.)	Huntington.....	Lawyer.
	J. S. Shaffer (D.)	Huntington.....	Contractor.
	P. V. Sanns (D.)	Lesage.....	Physician.
1. Calhoun....	Robert E. Hays (D.)	Grantsville.....	Printer.
1. Clay.....	J. C. Parsons (R.)	Ira.....	Lumberman.
1. Doddridge..	T. J. Smith (R.)	West Union.....	Farmer.
3. Fayette....	John Nuttall (R.)	Nuttallburg.....	Land Agent.
	Eli J. Mason (R.)	Montgomery.....	Assistant Mine Foreman.
	Henry McGraw (D.)	Anstead.....	Coal Miner.
1. Gilmer....	F. N. Hays (D.)	Glenville.....	Farmer.
1. Grant.....	George S. Van Meter (R.)	Corner.....	Farmer.
2. Greenbrier..	John C. Dice (D.)	Lewisburg.....	Insurance Agent.
	A. E. Huddleston (D.)	White Sulphur Springs	Merchant.
1. Hampshire..	R. P. Monroe (D.)	Barnes Mills.....	Farmer.
1. Hancock....	John Porter (R.)	New Cumberland.....	Manufacturer.
1. Hardy.....	G. W. McCauley (D.)	Moorefield.....	Lawyer.
2. Harrison....	Roy E. Farish (R.)	Clarksburg.....	Lawyer.
	Chas. A. Sutton (R.)	Bridgeport.....	Lawyer.
2. Jackson....	Charles H. Hartley (R.)	Cottageville.....	Teacher.
	Rath Duff (R.)	Mt. Tell.....	Farmer.
1. Jefferson...	C. M. Wetzel (D.)	Charles Town.....	Farmer.
5. Kanawha...	A. E. Scherr (R.)	Charleston.....	Insurance Agent.
	W. W. Wertz (R.)	Charleston.....	Lawyer.
	A. C. Vandine (R.)	Clendenin.....	Physician.
	John Bannister (R.)	East Bank.....	Ferryman.
	G. G. Reynolds (R.)	Fikview.....	Merchant.
1. Lewis.....	J. I. Warder (D.)	Weston.....	Physician.
1. Lincoln....	M. D. Goode (D.)	Griffithsville.....	Farmer.
1. Logan.....	R. L. Shrewsbury (D.)	Logan.....	Lawyer.
3. Marlon....	C. L. Shaver (D.)	Fairmont.....	Lawyer.
	Wm. B. Ice, Jr., (D.)	Barracksville.....	Stone Contractor
	F. Orval Murray (D.)	Mannington.....	Farmer.

2.	Marshall	Arthur H. Gray (R.)	Cameron	Farmer.
		E. M. Hinerman (R.)	Moundsville	Lawyer.
2.	Mason	Davie Hill (R.)	Beech Hill	Farmer.
		T. P. Rungarner (R.)	New Haven	Railroad Agent.
2.	Mercer	Wm. P. Hawley (R.)	Bluefield	Merchant.
		W. B. Honaker (R.)	Montclain	Real Estate Agt.
1.	Mineral	J. C. Liller (R.)	Keyser	R. R. Conductor.
1.	Mingo	S. U. G. Rhodes (R.)	Williamson	Lawyer.
2.	Monongalia	Ells A. Yost (R.)	Morgantown	Lawyer.
		Sylvester Arnett (R.)	Lowsville	Farmer.
1.	Monroe	C. P. Nash (D.)	Alderson	Farmer.
1.	Morgan	Vernon E. Johnson (R.)	Berkeley Springs	Insurance Agent.
2.	McDowell	George Wolfe (R.)	Davy	Mgr. Coal Mines.
		C. E. Harman (R.)	Keystone	Real Estate Agt.
1.	Nicholas	G. G. Duff (D.)	Summersville	Lawyer.
4.	Ohio	Fred F. Faris (R.)	Wheeling	Architect.
		John F. Arbez (R.)	Wheeling	Lawyer.
		Jesse A. Bloch (R.)	Wheeling	Tobacco Manufacturer.
		Harry A. Weiss (R.)	Wheeling	Rougher.
1.	Pendleton	H. M. Calhoun (D.)	Franklin	Lawyer.
1.	Pleasants	Arthur B. Flesher (R.)	Arvilla	Farmer.
1.	Pocahontas	George W. Wilson (R.)	Wildell	Lumberman.
2.	Preston	S. J. Cobun (R.)	Masonstown	Banker.
		Clay M. Crane (R.)	Terra Alta	Salesman.
1.	Putnam	H. F. Asbury (R.)	Poca	Physician.
1.	Raleigh	J. E. Crouse (R.)	Beckley	Insurance Agent.
1.	Randolph	E. D. Talbott (D.)	Elkins	Lawyer.
2.	Ritchie	Sherman Robinson (D.)	Harrisville	Lawyer.
		M. K. Duty (R.)	Pennsboro	Lawyer.
2.	Roane	C. A. Crislip (R.)	Spencer	Real Estate.
		S. V. Carper (R.)	Amma	Farmer.
1.	Summers	J. W. Alderson (D.)	Bellepoint	Farmer.
1.	Taylor	Thos. W. Brohard (R.)	Flemington	Merchant.
1.	Tucker	F. M. Glenn (R.)	Parsons	Jeweler.
2.	Tyler	Arleu G. Swiger (R.)	Sistersville	Lawyer.
		John M. Smith (R.)	Wilbur	Farmer.
1.	Upshur	F. F. Farnsworth (R.)	French Creek	Physician.
2.	Wayne	F. W. Terrill (D.)	Wayne	R. R. Agent.
		C. W. Thompson (D.)	Kenova	Salesman.
1.	Webster	W. S. Wyszog (D.)	Webster Springs	Lawyer.
2.	Wetzel	C. F. Jolliffe (D.)	Anthem	Merchant.
		Septimus Hall (D.)	New Martiusville	Retired.
1.	Wirt	H. I. Shears (R.)	Elizabeth	Merchant.
3.	Wood	Tim Penwell (R.)	Parkersburg	Salesman.
		C. W. Dowling (R.)	Williamstown	Contractor.
		W. W. Welgie (R.)	Slate	R. R. Agent.
1.	Wyoming	W. H. H. Cook (R.)	Windom	Farmer.
		Republicans		53
		Democrats		33
		Republican Majority		20

Standing Committees of the House of Delegates.

ON THE JUDICIARY.

Messrs. Arbenz (*Chairman*), Robinson, Swiger, Rhodes, Sutton, Wertz, Hinerman, Yost, Duty, Parrish, Talbott, Warth, Shrewsbury, Calhoun and Shaver.

ON TAXATION AND FINANCE.

Messrs. Scherr (*Chairman*), Hawley, Johnson, Nuttall, Yost, Brohard, Bloch, Dowling, Crislip, Hall, Hays (of Gilmer), Dice and Seibert.

ON PROHIBITION AND TEMPERANCE.

Messrs. Yost (*Chairman*), Hartley, Hinerman, Cook, Glenn, Smith (of Doddridge), Farnsworth, Sutton, Wertz, Arbenz, Ice, McCauley, Warth, Warder and Elson.

ON BANKS AND BANKING.

Messrs. Cobun (*Chairman*), Shears, Johnson, Hawley, Penwell, Duty, Scherr, Crouse, Bumgarner, Farnsworth, Wetzel, Seibert, Sanns and Hall.

ON INSURANCE.

Messrs. Johnson (*Chairman*), Scherr, Crouse, Faris, Swiger, Crane, Wolf, Liller, Honaker, Dice, Wysong, Shaver and Morrison.

ON MILITARY AFFAIRS.

Messrs. Crane (*Chairman*), Swiger, Reynolds, Liller, Nuttall, Wilson, Sutton, Crouse, Hinerman, Jolliffe, Seibert, Duff (of Nicholas), Shrewsbury and McGraw.

ON EDUCATION.

Messrs. Hartley (*Chairman*), Hinerman, Swiger, Parrish, Duff (of Jackson), Liller, Farnsworth, Honaker, Wilson, Cook, Morrison, Jolliffe, Nash, Seibert and Hays (of Gilmer.)

ON LABOR.

Messrs. Weiss (*Chairman*), Liller, Wolfe, Mason, Asbury, Penwell, Vandine, Rhodes, Bumgarner, Robinson, Thompson, McGraw, Goode, McCauley and Duff (of Nicholas.)

ON RAILROADS.

Messrs. Robinson (*Chairman*), Johnson, Hawley, Swiger, Glenn, Crouse, Scherr, Weigle, Bumgarner, Wolfe, Warder, McCauley, Elson, Warth and Murray.

ON MINES AND MINING.

Messrs. Honaker, (*Chairman*), Wolfe, Asbury, Bannister, Mason, Liller, Duty, Wertz, Parrish, Rhodes, Shrewsbury, Murray, Talbott, Goode and Shaffer.

ON ROADS AND INTERNAL NAVIGATION.

Messrs. Gray (*Chairman*), Vandine, Asbury, Cook, Hill, Crislip, Glenn, Porter, Smith (of Doddridge), Duff (of Jackson), Monroe, Warth, Huddleston, McCauley and Duff (of Nicholas.)

ON FEDERAL RELATIONS.

Messrs. Duty (*Chairman*), Penwell, Shears, Bumgarner, Smith (of Doddridge), Gray, Crane, Glenn, Brohard, Parsons, Wetzel, Shaver, Talbott, Warth and Wysong.

ON COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS.

Messrs. Wertz (*Chairman*), Arbenz, Parrish, Swiger, Honaker, Asbury, Hinerman, Penwell, Crouse, Harman, Terrill, Thompson, Sanns, Shaffer and Wetzel.

ON PRIVATE CORPORATIONS AND JOINT STOCK COMPANIES.

Messrs. Hawley (*Chairman*), Wolfe, Hartley, Hinerman, Crouse, Crans, Liller, Swiger, Shears, Crislip, Wysong, Warth, Shrewsbury, Wetzel and Shaver.

ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Liller (*Chairman*), Parsons, Harman, Mason, Porter, Duff (of Jackson), Carper, Shears, Robinson, Flesher, Monroe, Shrewsbury, Rhea and Wysong.

ON CLAIMS AND GRIEVANCES.

Messrs Swiger (*Chairman*), Arbenz, Crouse, Hinerman, Johnson, Hartley, Yost, Honaker, Flesher, Parsons, Talbott, Seibert, Allen, Alderson and Nash.

ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.

Messrs. Faris (*Chairman*), Crislip, Duff (of Jackson), Flesher, Bumgarner, Shears, Smith (of Doddridge), Calhoun, Cook, Weiss, Warth, Warder, Nash, Morrison and Allen.

ON PRINTING AND CONTINGENT EXPENSES.

Messrs. Nuttall (*Chairman*), Swiger, Brohard, Bloch, Glenn, Rhodes, Warth, Hays (of Calhoun), and Dice.

ON THE EXECUTIVE OFFICES AND LIBRARY.

Messrs. Bloch (*Chairman*), Faris, Harman, Hartley, Brohard, Parrish, Van Meter, Gray, Parsons, Carper, Scherr, Dice, Hall, Huddleston, McCauley and Monroe.

ON ARTS, SCIENCES AND GENERAL IMPROVEMENTS.

Messrs. Hinerman (*Chairman*), Duff (of Jackson), Liller, Yost, Vandine, Crislip, Farnsworth, Flesher, Robinson, Reynolds, Ice, Rhea, Seibert, Terrill and Nash.

ON THE PENITENTIARY.

Messrs. Rhodes (*Chairman*), Hill, Dowling, Duty, Gray, Hinerman, Porter, Crane, Reynolds, Harman, Elson, Ice, Shrewsbury, Allen and Nash.

ON IMMIGRATION AND AGRICULTURE.

Messrs. Duff (of Jackson), (*Chairman*), Van Meter, Carper, Reynolds, Smith (of Tyler), Parrish, Wilson, Arnett, Wetzel, Jolliffe, Nash and Lingamfelter.

ON STATE BOUNDARIES.

Messrs. Sutton (*Chairman*), Wilson, Bannister, Wertz, Honaker, Penwell, Bumgarner, Carper, Shears, Liller, Jolliffe, Thompson, Sanns, McGraw and McCauley.

ON MEDICINE AND SANITATION.

Messrs. Farnsworth (*Chairman*), Vandine, Asbury, Arnett, Bannister, Cook, Crislip, Dowling, Flesher, Warder, Morrison, Sanns, Elson, Alderson and Lingamfelter.

ON FORESTRY AND CONSERVATION.

Messrs. Wilson (*Chairman*), Hartley, Swiger, Hinermaan, Hawley, Cobun, Van Meter, Glenn, Harman, Talbott, Lingamfelter, Duff (of Nicholas), Sanns and Huddleston.

ON ELECTIONS AND PRIVILEGES.

Messrs. Parrish (*Chairman*), Liller, Smith (of Tyler), Cook, Porter, Van Meter, Carper, Arnett, Asbury, Harman, Ice, Wetzels, Shaffer, Goode and Hays (of Calhoun.)

ON GAME AND FISH.

Messrs. Glenn (*Chairman*), Penwell, Faris, Hawley, Parrish, Rhodes, Shears, Wolfe, Hill, Van Meter, Elson, Rhea, Dice and Murray.

ON RULES.

Messrs. Wertz (*Chairman*), Johnson, Arbenz, Dice and Wysong.

TABLE OF CONTENTS

ACTS AND RESOLVES

SESSION 1913.

Chapter	FISCAL YEAR.	Page.
1.	Fiscal year and providing for making reports	1
APPROPRIATIONS.		
2.	Appropriations to pay salaries of officers of the government	1
3.	General appropriation bill	4
4.	To pay mileage and per diem of members and salary of officers and attaches of extraordinary session of legislature	35
5.	To pay per diem of members and salary of officers and attaches of regular session of legislature	40
6.	For contingent expenses of the legislature, 1913	44
7.	To pay charges and expenses incurred in executing laws in Kanawha County	45
GENERAL AND SPECIAL LAWS.		
8.	Creating office of hotel inspector	46
9.	Creating public service commission	53
10.	Workmen's compensation fund	64
11.	Relating to hydro-electric and other companies (water power)	84
12.	Public uses for which private property may be taken	94
13.	Prohibition	96
14.	To prevent the introduction and spread of San Jose scale, etc.	107
15.	To regulate and provide for the supervision of investment com- panies	114
16.	Pertaining to cigarettes, tobacco, etc. (selling or giving)	122
17.	To preserve competition among common carriers	124
18.	Extending time within which railroads may commence construc- tion of roads	126
19.	To prohibit discrimination and twisting by insurance companies	127
20.	Providing for the supervision of rate making associations	135
21.	Banks and banking	138
22.	Assistants to prosecuting attorneys	157
23.	To regulate use of common drinking cup	158
24.	Board of health	159
25.	Relating to taxes on collateral inheritances, etc.	165
26.	Registration of voters	168
27.	Protection of elk	172

Chapter	Page
28. Registration of physicians and accoucheurs, etc.	172
29. Relating to the appointment of deputy sheriffs	173
30. Board of public works, composed of	174
31. Point Pleasant monument; trustees to preserve grounds	175
32. Allowances by county courts to county officers	176
33. To provide for distribution of legislative journals and bills to the people	178
34. Extension of time for sheriffs to collect taxes	180
35. To preserve and maintain a state law library at Charles Town	181
36. Salaries of state superintendent of free schools and state treasurer	182
37. Odd Fellows hall association of Wheeling	182
38. Fees of jailer as to prisoners	187
39. Limiting amount of indebtedness of counties, etc.	188

ROADS AND BRIDGES.

40. Rate and manner of laying levies	189
41. Creating system of roads; establishing state road bureau	192
42. Relating to sentencing to hard labor of convicts in the county jails.	201
43. Authorizing justices of the peace to sentence persons to labor on public roads	202
44. To permit persons charged with misdemeanor to work on the roads.	203
45. County courts to make appropriations out of road fund, etc.	204
46. Authorizing elections on question of bridges across Shenandoah river	207

COURT MATTERS.

47. Time for holding court in Webster and Upshur counties	210
48. Authorizing judge of twenty-third circuit to appoint stenographer and page	211
49. To reform, alter and modify the county court of Tucker county	213
50. Time for holding court in Grant, Mineral and Tucker counties	215
51. Time for holding court in Braxton and Nicholas counties	216
52. In reference to the submission of causes to the supreme court	217
53. To reform, alter and modify the county court of Grant County	217
54. Time for holding court in Wood and Wirt counties	220
55. To authorize county courts to pay additional compensation to judges, when	221
56. Time for holding court in Boone, Logan and Wayne counties	221
57. Time for holding court in Taylor and Preston counties	222
58. Time for holding court in Greenbrier and Pocahontas counties	223
59. County court of Wayne county may lay special levy to build	224

SCHOOL SUBJECTS.

60. Providing for joint high schools	224
61. Independent school district of Point Pleasant	226
62. Education; creating office of financial secretary, etc.	231
63. Independent school district of Bellington	236
64. Independent school district of Church	238
65. Authorizing sale of Fairmont normal school property, etc.	250
66. Relating to rate of taxation for state school purposes	251
67. Independent school district of Huntington	252
68. Independent school district of St. Albans	255
69. Relating to the duration of teachers' certificates	262
70. The Industrial school for boys—(reform school)	263

Chapter	Page
71. Relating to the West Virginia university	269
72. To enable Clay county high school to raise funds. etc.	271

MUNICIPAL.

73. Relating to paving, etc., in Huntington	272
74. Wheeling charter	285
75. City of Huntington, shade trees, streets, etc.	325
76. Cameron charter	341
77. Charles Town charter, amended	368
78. Piedmont charter	371
79. Grafton charter	400
80. Martinsburg charter, amended	418
81. Fairmont charter	425
82. Logan charter, amended	483
83. Barboursville; to increase its bonding power	484
84. Sistersville charter, amended	485
85. Huntington charter, amended	486
86. Chester charter, amended	503
87. Princeton charter	506
88. Parkersburg charter, amended	530
89. Keyser charter	539
90. Weston charter, amended	586
91. Wheeling charter, amended	607

HOUSE JOINT RESOLUTIONS.

Ratifying the amendment to the constitution of the United States as to the election of Senators	608
Requesting representatives in congress to support Kenyon-Shepard bill	609
Requesting representatives to aid in securing pension for home guards.	610

SENATE JOINT RESOLUTIONS.

To ratify income tax amendment to constitution of United States	610
Memorializing congress as to money due West Virginia	611
Proposing an amendment to the constitution; Lieutenant Governor	617
Providing for additional copies of journals and bills	619
Raising joint committee to investigate bribery charges	619
Requesting attorney general to assist committee on bribery charges	620

CONFERENCE COMMITTEES' SUBSTITUTE.

Creating Virginia debt commission	621
---	-----

HOUSE CONCURRENT RESOLUTIONS.

Providing for joint assembly to open and publish election returns	623
Adopting joint rules for the two houses	623
Memorial to congress asking for three federal judicial districts	623
Providing for advance copies of acts of legislature	624

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1913.

(House Bill No. 2.)

CHAPTER 1.

AN ACT to amend and re-enact section nineteen of chapter seventeen, serial section five hundred and sixty-four, code of one thousand nine hundred and six, relating to the state fiscal year and providing for making reports, and repealing all sections inconsistent herewith.

(Passed February 6, 1913. In effect from passage. Approved by the Governor February 7, 1913.)

SEC.		
19.	Fiscal year to begin July 1, end June 30; officers or boards	shall compile report covering what time.

Be it enacted by the Legislature of West Virginia:

That section nineteen of chapter seventeen, serial section five hundred and sixty-four, code of one thousand nine hundred and six, be amended and re-enacted so as to read as follows:

Sec. 19. The fiscal year for the state shall commence on the first day of July and end on the thirtieth day of June, and all reports, settlements, accounts and statements which are now, or that hereafter may be required by law, shall be kept and made to conform thereto. As soon as practicable after June thirtieth, one thousand nine hundred and fourteen, each of the officers or boards now or hereafter required by law to compile a biennial report shall compile a report covering the twenty-one preceding months, and every two years thereafter the biennial reports shall be made for the two preceding years.

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

(Senate Bill No. 231.)

CHAPTER 2.

AN ACT making appropriations of public money for salaries of the officers of the government, in pursuance of the forty-second section of the sixth article of the constitution.

(Passed February 21, 1913. In effect from passage. Became a law without the approval of the Governor.)

Sec.

1. Appropriations for nine months ending June 30, 1913, and for fiscal years ending June 30, 1914, and June 30, 1915. Salaries of governor and other state officers, adjutant general, state librarian, tax commissioner and state historian and archivist. Salaries of judges of supreme court and circuit judges.

Sec.

- Salary of keeper of rolls, janitor, commissioner of banking, department of mines, bureau of labor, game warden, board of control, and state board of regents.
2. Indicating the amount and the time.
3. Auditor authorized and directed to issue his warrants upon the treasury, how and when.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That there shall be and are hereby appropriated out of the treasury for the nine months ending on June thirtieth, one thousand nine hundred and thirteen, and for the fiscal year ending June thirtieth, one thousand nine hundred and fourteen, and the fiscal year ending June thirtieth, one thousand nine hundred and fifteen, respectively, the following sums of money to pay the salaries of the officers of the government:

Executive Department.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
To pay the salary of the governor, . . . \$	3,750.00	\$ 5,000.00	\$ 5,000.00
To pay the salary of the auditor, . . .	3,375.00	4,500.00	4,500.00
To pay the salary of the treasurer,	2,208.33	3,500.00	3,500.00
To pay the salary of the attorney general,	3,000.00	4,000.00	4,000.00
To pay the salary of the superin- tendent of free schools,	2,583.33	4,000.00	4,000.00
To pay the salary of the secretary of state,	3,000.00	4,000.00	4,000.00
To pay the salary of the adjutant general,	2,700.00	3,600.00	3,600.00
To pay the salary of the state librarian,	900.00	1,200.00.	1,200.00
To pay the salary of the state tax commissioner,	3,000.00	4,000.00	4,000.00
To pay the salary of the commis- sioner of agriculture,	1,333.33	4,000.00	4,000.00
To pay the salary of the state historian and archivist,	1,000.00	3,000.00	3,000.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
<i>Judicial Department.</i>			
To pay the salaries of the judges of the supreme court,	\$20,625.00	\$27,500.00	\$27,500.00
To pay the salaries of the judges of the circuit courts,	51,975.00	69,300.00	69,300.00
<i>Keeper of the Rolls.</i>			
To pay the salary of the keeper of the rolls,	\$ 225.00	\$ 300.00	\$ 300.00
<i>Janitor.</i>			
To pay the salary of the janitor, . . .	\$ 1,125.00	\$ 1,500.00	\$ 1,500.00
<i>Commissioner of Banking.</i>			
To pay the salary of the commis- sioner of banking,	\$ 1,875.00	\$ 2,500.00	\$ 2,500.00
<i>Department of Mines.</i>			
To pay the salary of the chief of the department of mines,	\$ 2,250.00	\$ 3,000.00	\$ 3,000.00
<i>Bureau of Labor.</i>			
To pay the salary of the commis- sioner of labor,	\$ 1,350.00	\$ 1,800.00	\$ 1,800.00
To pay the salaries of the members of the public service commission,	4,000.00	24,000.00	24,000.00
<i>Forestry, Game and Fish Warden.</i>			
To pay the salary of the forestry, game and fish warden,	\$ 1,350.00	\$ 1,800.00	\$ 1,800.00
<i>Board of Control.</i>			
To pay the salaries of the members of the board of control,	\$11,250.00	\$15,000.00	\$15,000.00
<i>State Board of Regents.</i>			
To pay the salaries of the four members of the board of regents,	\$ 3,000.00	\$ 4,000.00	\$ 4,000.00

Sec. 2. The first column of figures appearing in the foregoing section of this act shall be deemed to indicate the amount intended to be appropriated by the legislature for the aforesaid salaries, respectively, for nine months only, beginning on the first day of October, one thousand nine hundred and twelve, and ending on the thirtieth day of June, one thousand nine hundred and thirteen; the second column of figures appearing in the foregoing section shall be deemed to indicate the amount intended to be appropriated by the legislature for the aforesaid salaries, respectively, for the new fiscal

year as established by an act passed by the legislature of one thousand nine hundred and thirteen, and shall cover the new fiscal year beginning on the first day of July, one thousand nine hundred and thirteen, and ending on the thirtieth day of June, one thousand nine hundred and fourteen; and the third column of figures shall be deemed to indicate the amount intended to be appropriated by the legislature for the aforesaid salaries, respectively, for the new fiscal year beginning on the first day July, one thousand nine hundred and fourteen, and ending on the thirtieth day of June, one thousand nine hundred and fifteen.

Sec. 3. The auditor is hereby authorized and directed, when properly demanded, to issue his warrants upon the treasury in the same manner as he would be required to if every item of the expenditure were directed to be paid to the creditor by name, and no money shall be drawn from the treasury for the purpose herein named during the nine months ending June thirtieth, one thousand nine hundred and thirteen, and the new fiscal years ending June thirtieth, one thousand nine hundred and fourteen, and June thirtieth, one thousand nine hundred and fifteen, respectively, beyond the amount hereby appropriated unless the same is authorized by the constitution or some general law.

(Senate Bill No. 230.)

CHAPTER 3.

AN ACT making appropriations of public money to pay general charges upon the treasury.

(Passed February 21, 1913. In effect from passage. Became a law without the approval of the Governor.)

SEC.

1. Appropriations to pay general charges upon the treasury for nine months ending June 30, 1913, and for the fiscal years ending June 30, 1914 and June 30, 1915.
2. Criminal charges.
3. Lunatics in jail.
4. Storer college.
5. Kings Daughters and city hospitals.
6. W. Va. agricultural experiment station.
7. Commissioner of banking.
8. Department of mines.
9. W. Va. horticultural society.
10. State board of health.
11. Commissioner of pharmacy.

SEC.

12. Board of examiners in optometry.
13. Bureau of labor.
14. State law library.
15. Forestry, game and fish.
- 15a. Forestry, game and fish protection.
16. Berkeley Springs board.
17. West Virginia childrens home.
18. State geological and economic survey.
19. The militia.
20. Department of law and order.
21. Department of archives and history.
22. Printing, binding and stationery.
23. Capitol buildings and grounds.
24. Governor's mansion and grounds.
25. Governor's office.
26. Clerks and contingent and current expenses, judicial department.

- | | |
|--|---|
| <p>SEC.
27. State tax commissioner.
28. West Virginia colored orphans home.
29. Florence Crittenden home.
30. Labor fund capitol building.
31. The Rumseyan society, inc.
32. Contingent legislative expenses.
33. Salaries of clerks.
34. Contingent expenses of various offices.
35. State board of regents.
36. Board of control.
37. Semi-centennial of formation of West Virginia.
38. Public service commission.
39. Virginia debt.
40. To pay expenses of commission to investigate bribery charges.
41. For improving and protecting river bank around Point Pleasant monument.
42. Anti-tuberculosis league of West Virginia.
43. West Virginia hospital for insane.
44. Second hospital for insane.
45. West Virginia asylum (of Huntington.)
46. Miners' hospital No. 1.
47. Miners' hospital No. 2.
48. Miners' hospital No. 3.
49. West Virginia reform school.
50. West Virginia industrial home for girls.
51. West Liberty normal school.
52. Glenville normal school.
53. Shepherd college.
54. Concord normal school.
55. West Virginia colored institute.
56. Bluefield colored institute.
57. Insurance on public buildings.
58. West Virginia schools for the deaf and blind.
59. West Virginia university.
60. Preparatory branch of university at Montgomery.
61. Preparatory branch of university at Keyser.
62. Marshall college.
63. Fairmont normal school.
64. Money received by state board of control to be paid into treasury.
65. Compensation of institute instructors.</p> | <p>SEC.
66. Distribution of general school fund.
67. State tuberculosis sanitarium.
68. Gettysburg semi-centennial.
69. Payment of county superintendents of free schools.
70. Supplemental aid to schools.
71. Printing, etc., for free school department.
72. Clerks and contingent expenses for the office of state superintendent of free schools.
73. Uniform examinations.
74. Erroneous assessments.
75. Erroneous payments into the treasury.
76. Reprinting and binding supreme court reports.
77. For pay of state agents.
78. State building and suitable exhibit of West Virginia resources at the Panama Pacific exposition at San Francisco in 1915.
79. Miscellaneous appropriations.
80. Refunding county, district and municipal taxes.
81. Overpaid taxes.
82. Delinquent taxes.
83. When fiscal year begins and ends.
84. How appropriations for public institutions are to be drawn.
85. All officers, employes, head of department or of an institution, or board to make report to the governor biennially as to clerk hire, etc.; how state board of control shall report.
86. Printing, etc., used for the free school department and for certain boards, officers or institutions; how paid for.
87. No moneys to be paid beyond appropriations except as provided by constitution or some general law or as provided for in this section; what payments may be made after expiration of fiscal year ending June 30, 1915.
88. Clerk of the House and clerk of the Senate shall jointly make up and furnish the auditor, certified copy of acts carrying appropriations.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. That there be and are hereby appropriated out of the treasury for the nine months ending June thirtieth, one thousand nine hundred and thirteen, and for the new fiscal year ending June thirtieth, one thousand nine hundred and fourteen, and for the fiscal year ending June thirtieth, one thousand nine hundred and fifteen, the following sums of money for the following purposes:

Criminal Charges.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
Sec. 2. For criminal charges.	\$ 75,000.00	\$ 75,000.00	\$ 75,000.00
For transportation of prisoners	3,000.00	4,000.00	4,000.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
<i>Lunatics in Jail.</i>			
Sec. 3. For the support of lunatics in jail.....\$	1,875.00	2,500.00	2,500.00
<i>Storer College.</i>			
Sec. 4. For salaries of teachers	\$ 900.00	1,200.00	1,200.00
For industrial department	1,500.00	1,500.00	1,500.00
For promoting the horticultural and trucking industry\$	2,000.00	4,000.00	4,000.00
To be expended at the discretion and upon the approval of the state board of control, in the manner provided by chapter fifty-eight, of the acts of one thousand nine hundred and nine.			
<i>Kings Daughters and City Hospitals.</i>			
Sec. 5. For Kings Daughters and city hospitals, for the treatment of laborers and others who may become a public charge, said amount to be paid upon the approval of the state board of control	\$ 5,000.00	10,000.00	10,000.00
For equipment	2,000.00	2,000.00	2,000.00
To be expended at the discretion and upon the approval of the state board of control, in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.			
<i>W. Va. Agricultural Experiment Station.</i>			
Sec. 6. For San Jose scale...\$	4,000.00	10,000.00	10,000.00
For promoting the horticultural and trucking industry.....	2,000.00	4,000.00	4,000.00

GENERAL APPROPRIATIONS.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
For investigation and experi- ments with live stock.....	1,000.00	1,500.00	2,000.00
For tobacco investigation and experiments	500.00	1,000.00	1,000.00
For printing	1,000.00	1,500.00	3,000.00
For promoting the chicken in- dustry	750.00	1,000.00	1,000.00

Commissioner of Banking.

Sec. 7. For traveling expenses of commissioner of banking and assistants	\$ 1,000.00	3,000.00	3,000.00
For current expense	1,000.00	1,000.00	1,000.00
For salaries of assistant com- missioners of banking.....	4,050.00	5,400.00	5,400.00
For salary of stenographer....	675.00	900.00	900.00

Department of Mines.

Sec. 8. For salaries of twelve inspectors	\$ 18,900.00	25,200.00	25,200.00
For traveling expenses of chief mine inspector and twelve mine inspectors.....	6,750.00	9,000.00	9,000.00
For contingent and current ex- penses and distribution of re- ports	1,500.00	2,000.00	2,000.00
For stenographer and clerk hire	3,000.00	4,000.00	4,000.00
For examination of oils.....	375.00	500.00	500.00

W. Va., State Horticultural Society.

Sec. 9. For carrying out the provisions of serial section three hundred and fifty-five of the code with regard to horti- culture	\$ 700.00	2,000.00	2,000.00
--	-----------	----------	----------

State Board of Health.

Sec. 10. For expenses of the state board of health.....	\$ 1,875.00	15,000.00	15,000.00
--	-------------	-----------	-----------

Commissioners of Pharmacy.

Sec. 11. For salaries	\$ 225.00	300.00	300.00
-----------------------------	-----------	--------	--------

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
For salary of secretary.....	600.00	800.00	800.00
For traveling expenses of secretary	37.50	50.00	50.00
Per diem and traveling expenses of four members.....	300.00	400.00	400.00
For holding examinations and sundry expenses	225.00	300.00	300.00
For inspecting stores of state..	187.50	250.00	250.00
<i>Board of Examiners in Optometry.</i>			
Sec. 12 For the current expenses of the board of examiners in optometry	100.00	200.00	200.00
<i>Bureau of Labor.</i>			
Sec. 13. For salary of clerks and contingent and current expenses	\$ 1,200.00	1,600.00	1,600.00
For salary of assistant commissioner	750.00	1,000.00	1,000.00
For expenses of free public employment bureau	900.00	1,200.00	1,200.00
<i>State Law Library.</i>			
Sec. 14 For the purchase and binding of books for the library at the state capitol...\$	1,875.00	2,500.00	2,500.00
For the purchase of and binding of books for the state library at Charles Town....	950.00	1,250.00	1,250.00
To pay the salary of the librarian at the state law library at Charles Town	166.67	500.00	500.00
The above items to be paid out only upon the order of the president of the supreme court of appeals.			
<i>Forestry, Game and Fish.</i>			
Sec. 15. For mileage and traveling expenses of warden....\$	375.00	500.00	500.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
For contingent fund and current expenses	1,125.00	1,500.00	1,500.00
For salary of two chief deputy wardens	1,350.00	1,800.00	1,800.00
For contingent and current expenses of two deputies.....	525.00	700.00	700.00
For mileage and traveling expenses for two deputies.....	600.00	800.00	800.00

Forest, Game and Fish Protection.

Sec. 15a. For the protection of forests and the protection and propagation of fish and game, to be expended by and upon the approval of the forest, game and fish warden in the manner and for the purposes provided by chapter sixty of the acts of one thousand nine hundred and nine	\$ 5,000.00	10,000.00	10,000.00
---	-------------	-----------	-----------

Which sums are appropriated to be paid out of the fund known as the "forest, game and fish protective fund." which was created by section thirty-one of chapter sixty of the acts of one thousand nine hundred and nine.

Berkeley Springs Board.

Sec. 16. For contingent expenses of board and improvements	\$ 300.00	400.00	400.00
--	-----------	--------	--------

West Virginia Children's Home.

Sec. 17. For current expenses.\$	9,000.00	12,000.00	12,000.00
For repairs and improvements.	1,500.00	2,500.00	2,500.00
Field work and expenses of humane society	4,500.00	6,000.00	6,000.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
To be expended at the discretion and upon the approval of the state board of control in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.			
<i>State Geological and Economic Survey.</i>			
Sec. 18 For co-operation with United States geological survey in topographic mapping..\$	9,000.00	12,000.00	12,000.00
For publication and preparation of reports	4,666.66	14,000.00	13,000.00
For soil studies and maps.....	200.00	600.00	600.00
For stream gauging.....	133.33	400.00	400.00
For field and other expenses..	1,000.00	3,000.00	3,000.00
For salaries of geological staff..	4,900.00	14,600.00	14,600.00
To be expended at the discretion and upon the approval of the state board of control, in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.			
<i>The Militia.</i>			
Sec. 19. To carry into effect the provisions of chapter forty-one of the acts of one thousand eight hundred and ninety-seven, as amended by the acts of one thousand nine hundred and nine, relating to the militia	\$ 39,512.96	65,419.40	65,419.60
For the bands of the two regiments	750.00	1,000.00	1,000.00

Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
---	---	---

Maintenance of Law and Order.

Sec. 20. To pay the expenses incurred by the militia in maintenance of law and order, when ordered into service by the governor during civil disturbances \$100,000.00

Or so much thereof as may be necessary for that purpose.

Department of Archives and History.

Sec. 21 For salary of stenographer, clerks, purchase of books and records, binding books, for furniture, shelves, and contingent and current expenses	\$ 12,405.00	13,600.00	13,600.00
---	--------------	-----------	-----------

To pay the salary of the assistant state archivist and historian	800.00	2,400.00	2,400.00
--	--------	----------	----------

Printing, Binding and Stationery.

Sec. 22. For printing, binding and stationery, and for rent of ware room at six hundred and ten Capitol street, not otherwise appropriated for, out of which shall be paid all bills for printing and binding and stationery for the house of delegates and senate, and for all other state departments and institutions, except for the use of the state department of free schools, and such other departments and institutions as have special printing appropriations	\$ 31,875.00	42,500.00	42,500.00
---	--------------	-----------	-----------

Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
---	---	---

Capitol Buildings and Grounds.

Sec. 23. For water, light, heat, repairs, and contingent and current expenses for capitol building, annex and grounds, to be expended only upon the order of the board of public works	\$ 7,500.00	10,000.00	10,000.00
--	-------------	-----------	-----------

Governor's Mansion and Grounds.

Sec. 24. For repairs, betterments, additions to mansion.	\$ 2,450.00	1,500.00	1,500.00
For furnishing attic for servants' quarters	500.00		
For removing stable and building garage and laundry....	1,250.00		
For furniture, furnishing, renovating and decorating interior of buildings, as per bid and specifications of C. J. Benson & Co., or whoever the contractor may be, as per plans and specifications filed with the finance committee of the senate	6,100.00		
For maintenance	937.50	1,250.00	1,250.00
For service in mansion.....	400.00	1,200.00	1,200.00

The above items to be expended upon the order of the governor and only after work has been done and supplies furnished in the manner satisfactory to him.

Governor's Office.

Sec. 25. For civil contingent fund, to be expended upon the order of the governor, no part of which, however, is to be used for clerk hire in any

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
of the state offices or institutions, other than the governor's office	\$ 15,000.00	20,000.00	20,000.00
The governor is hereby authorized to use so much thereof as is necessary to employ counsel and pay costs, etc., in any suits at law or in equity that are now pending, or that may hereafter be instituted against any officer of this state by any person, or persons, on account of industrial troubles.			
For salary of private secretary to the governor	3,000.00	4,000.00	4,000.00
For salaries of stenographers and clerks	2,275.00	3,700.00	3,700.00
For salary of pardon attorney	2,250.00	3,000.00	3,000.00
For salary of stenographer to pardon attorney	900.00	1,200.00	1,200.00
For contingent expenses of pardon attorney	187.50	250.00	250.00
<i>Clerks and Contingent and Current Expenses—Judicial Department.</i>			
Sec. 26. To pay compensation of special judges of circuit courts	\$ 1,125.00	1,500.00	1,500.00
To pay mileage of judges of the supreme court	750.00	1,000.00	1,000.00
To pay mileage of circuit judges	2,250.00	3,000.00	3,000.00
To pay the salary of the clerk of the supreme court	1,125.00	1,500.00	1,500.00
For contingent and current expenses of the supreme court, payable on requisition of the president of the court	900.00	1,200.00	1,200.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
For law clerks or stenographers of judges of the supreme court, to be paid on order of the respective judges of said court.....	6,750.00	9,000.00	9,000.00
For printing and binding supplemental court reports to be done under the supervision of the attorney general	3,000.00	4,000.00	4,000.00
For salaries of criers and messengers of supreme court ..	1,125.00	1,500.00	1,500.00
For stenographer and typewriter clerk	900.00	1,200.00	1,200.00
For salaries of assistant clerks of supreme court	2,400.00	3,200.00	3,200.00

State Tax Commissioner.

Sec. 27. For expenses of state tax commissioner's office, including compensation of assistants, clerks, stenographers, and all other expenses..\$	15,000.00	19,000.00	19,000.00
For expenses of uniform system of accounting	6,000.00	7,000.00	7,000.00
For expenses of auditing state departments	2,000.00	5,000.00	5,000.00
For expenses of office of commissioner of prohibition, including compensation of assistants, clerks, stenographers and all other expenses.....		1,000.00	10,000.00

West Virginia Colored Orphans' Home.

Sec. 28. For current expenses.\$	6,000.00	8,000.00	8,000.00
Repairs and improvements....	1,500.00	2,000.00	2,000.00
Buildings and land.....	5,000.00	5,000.00	5,000.00
To be expended at the discretion and upon the approval of the state board of control in			

the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
--	---	---	---

Florence Crittenden Home.

Sec. 29. For the Florence Crittenden home at Wheeling...\$	937.50	1,250.00	1,250.00
--	--------	----------	----------

Labor Fund—Capitol Building.

Sec. 30. For salary of chief engineer	\$ 1,012.50	1,350.00	1,350.00
For one night engineer.....	742.50	990.00	990.00
For two night watchmen, one at capitol and one at annex	1,485.00	1,980.00	1,980.00
For one day fireman.....	735.00	980.00	980.00
For one night fireman	735.00	980.00	980.00
To pay the janitor and messenger to board of control	750.00	1,000.00	1,000.00
To pay nine (9) janitors at \$75.00 per month	6,075.00	8,100.00	8,100.00
For two charwomen for capitol building	645.00	860.00	860.00
For one elevator man. capitol building	360.00	480.00	480.00
For one elevator man. annex..	360.00	480.00	480.00

The Rumseyan Society, Inc.

Sec. 31. To aid in the completion of a monument to the memory of James Rumsey, the inventor of the steam boat	\$ 1,875.00	\$ 2,500.00	\$ 2,500.00
---	-------------	-------------	-------------

Contingent Legislative Expenses.

Sec. 32. For contingent expenses of the house of delegates, or so much thereof as may be necessary\$ 10,000.00		
For contingent expenses of the senate, or so much thereof			

GENERAL APPROPRIATIONS.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
as may be necessary	\$ 8,000.00		
<i>Salaries of Clerks.</i>			
Sec. 33. For salaries of three assistant attorneys general ..	\$ 4,583.33	\$ 7,500.00	\$ 7,500.00
For salary of three stenogra- phers for attorney general ..	2,399.99	3,200.00	3,200.00
For salary of printing clerk for attorney general	1,125.00	1,500.00	1,500.00
For additional clerk hire, pur- chase of books, office furni- ture and fixtures, and other contingent and current ex- penses in office of attorney general	2,999.97	4,000.00	4,000.00
For salary of the chief clerk to secretary of state	1,500.00	2,000.00	2,000.00
For salaries of the other clerks in the office of secretary of state	6,300.00	10,400.00	10,400.00
For salary of stenographer in office of secretary of state ..	900.00	1,200.00	1,200.00
For salary of the chief clerk, treasurer's office	1,500.00	2,000.00	2,000.00
For salary of assistant clerk in treasurer's office and steno- grapher	2,025.00	3,000.00	3,000.00
For salary of the chief clerk in auditor's office	1,500.00	2,000.00	2,000.00
For salary of stenographer in au- ditor's office	900.00	1,200.00	1,200.00
For salary of other clerks in the auditor's office	9,000.00	19,000.00	19,000.00
For paying expenses of publish- ing list of delinquent corpora- tions, to be paid out upon the order of the state auditor....		400.00	400.00
For additional expense in audi- tor's office occasioned by the ex-			

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
tra work made necessary by the acts of the legislature upon the subject of insurance; and additional expenses in the auditor's office occasioned by the extra work made necessary by the act of the legislature of West Virginia passed at the session of one thousand nine hundred and thirteen, entitled, "an act to regulate and provide for the supervision of investment companies and prevent the sale of worthless securities"		9,000.00	9,000.00
For salary of chief clerk to commissioner of agriculture	600.00	1,800.00	1,800.00
For salary of stenographer	300.00	900.00	900.00
For traveling expenses	300.00	1,000.00	1,000.00
For diseased animals	1,700.00	5,000.00	5,000.00
For carrying out the provisions of serial section three hundred and fifty-five of the code, relating to agricultural societies		2,000.00	2,000.00
For collecting statistics, advertising the agricultural interests of the state		20,000.00	20,000.00
<i>Contingent Expenses of Various Offices.</i>			
Sec. 34. For contingent and current expenses of the state auditor's office	2,300.00	2,500.00	2,500.00
For contingent and current expenses of the treasurer's office	500.00	1,000.00	1,000.00
For postage expended in sending out journals and bills of the house and senate, under the provisions of senate joint resolution, payable on requi-			

GENERAL APPROPRIATIONS.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
sition of the secretary of state	900.00		
For contingent and current ex- penses and clerk hire in office of state librarian	1,302.00	1,770.00	1,770.00
For distribution of the regular edition of the acts and jour- nals to the members of the legislature by the secretary of state as provided by section one of chapter thirteen of the code	500.00		
For contingent and current ex- penses for the office of com- missioner of agriculture	335.00	1,000.00	1,000.00
To pay assistant to superintend- ent of public printing for reading proof on biennial re- port for the legislature of one thousand nine hundred and thirteen, to be paid on the order of the secretary of state.\$	500.00		
For current and contingent ex- penses in the office of the sec- retary of state	1,875.00	2,500.00	2,500.00
<i>State Board of Regents.</i>			
Sec. 35. For salary and trav- eling expenses of the secretary and field agent of the state board of regents	1,200.00	2,400.00	2,400.00
For contingent, current and trav- eling expenses of the board ..	750.00	1,200.00	1,200.00
<i>Board of Control.</i>			
Sec. 36. For salaries of cleri- cal force	\$ 10,000.00	15,000.00	15,000.00
For traveling expenses	1,000.00	2,000.00	2,000.00
For current and contingent ex- penses	2,500.00	3,500.00	3,500.00

Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
---	---	---

Semi-Centennial of Formation of West Virginia.

Sec. 37. For semi-centennial of the formation of West Virginia, to be expended as ordered by the board of control, upon requisition of the commission appointed by the governor, to celebrate said centennial\$ 20,000.00

Public Service Commission.

Sec. 38. For current expense.\$ 5,000.00 \$ 50,000.00 \$ 25,000.00

Virginia Debt.

Sec. 39. To pay the per diem, traveling expenses, clerk hire, and other current and contingent expenses of the Virginia debt commission, or so much thereof as may be necessary for such purposes\$ 10,000.00 \$ 10,000.00

Sec. 40. To pay the expenses of commission appointed by the legislature of one thousand nine hundred and thirteen, to investigate bribery charges against members of the senate and house\$ 5,000.00

Sec. 41. For improving and protecting river bank around Point Pleasant monument, to be expended at the discretion and upon the approval of the state board of control in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine\$ 1,000.00 2,000.00 2,000.00

Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
---	---	---

Anti-Tuberculosis League of West Virginia.

Sec. 42. For state aid to the anti-tuberculosis league of West Virginia for use in the dissemination of information concerning the prevention and treatment of tuberculosis \$	2,500.00	\$ 3,700.00	\$ 3,700.00
--	----------	-------------	-------------

To be expended at the discretion and upon the approval of the state board of control, in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.

West Virginia Hospital for Insane.

Sec. 43. For current expense.	\$110,000.00	\$150,000.00	\$150,000.00
For repairs and improvements.	5,000.00	10,000.00	10,000.00
For buildings and land		32,500.00	32,500.00

Second Hospital for Insane.

Sec. 44. For current expenses.	\$ 60,000.00	\$ 75,000.00	\$ 75,000.00
For repairs and improvements.	3,750.00	7,500.00	7,500.00
For buildings and land		5,000.00	5,000.00

West Virginia Asylum (at Huntington).

Sec. 45. For current expenses.	\$ 60,000.00	\$ 75,000.00	\$ 75,000.00
For repairs and improvements.	3,750.00	7,500.00	7,500.00
For buildings and land		10,000.00	10,000.00

Miners' Hospital No. 1.

Sec. 46. For current expenses.	\$ 26,250.00	\$ 35,000.00	\$ 35,000.00
For repairs and improvements.	3,750.00	5,000.00	5,000.00
For buildings and land and improving grounds	3,000.00	10,000.00	

Miners' Hospital No. 2.

Sec. 47. For current expenses.	\$ 12,500.00	\$ 17,000.00	\$ 17,000.00
For repairs and improvements.	1,000.00	1,500.00	1,500.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
<i>Miners' Hospital No. 3.</i>			
Sec. 48. For current expenses.	\$ 13,500.00	\$ 18,000.00	\$ 18,000.00
For repairs and improvements.	750.00	1,000.00	1,000.00
<i>West Virginia Reform School.</i>			
Sec. 49. For current expenses.	\$ 32,500.00	\$ 45,000.00	\$ 50,000.00
For repairs and improvements.	3,750.00	5,000.00	5,000.00
For buildings and land	10,000.00	10,000.00	8,000.00
<i>West Virginia Industrial Home for Girls</i>			
Sec. 50. For current expenses	\$ 11,000.00	\$ 16,000.00	\$ 22,000.00
For repairs and improvements.	1,500.00	2,000.00	2,000.00
For buildings and land	2,750.00	2,750.00	
<i>West Liberty Normal School.</i>			
Sec. 51. For current expenses.	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00
For repairs and improvements.	750.00	1,000.00	1,000.00
For salaries of officers, teachers and employes	9,500.00	12,500.00	12,500.00
<i>Glenville Normal School.</i>			
Sec. 52. For current expenses	\$ 2,725.00	\$ 3,500.00	\$ 3,500.00
For repairs and improvements.	750.00	1,000.00	1,000.00
For salaries of officers, teachers and employes	11,000.00	14,000.00	14,000.00
For buildings and land		18,500.00	18,500.00
<i>Shepherd College.</i>			
Sec. 53. For current expenses.	\$ 2,250.00	\$ 3,000.00	\$ 3,000.00
For repairs and improvements.	1,000.00	1,500.00	1,500.00
For salaries of officers, teachers and employes	10,000.00	13,000.00	13,000.00
For buildings and land		13,000.00	13,000.00
<i>Concord Normal School.</i>			
Sec. 54. For current expenses.	\$ 4,500.00	\$ 6,000.00	\$ 6,000.00
For repairs and improvements.	3,750.00	5,000.00	5,000.00
For salaries of officers, teachers and employes	12,000.00	16,000.00	16,000.00
For buildings and land		27,500.00	27,500.00

GENERAL APPROPRIATIONS.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
<i>West Virginia Colored Institute.</i>			
Sec. 55. For current expenses.	\$ 6,000.00	\$ 7,500.00	\$ 7,500.00
For repairs and improvements.	6,000.00	7,500.00	7,500.00
For salaries of officers, teachers and employes	16,000.00	20,000.00	20,000.00
For buildings and land		16,000.00	16,000.00
<i>Bluefield Colored Institute.</i>			
Sec. 56. For current expenses.	\$ 2,250.00	\$ 3,000.00	\$ 3,000.00
For repairs and improvements.	1,000.00	2,000.00	2,000.00
For salaries of officers, teachers and employes	6,000.00	8,000.00	8,000.00
<i>Insurance on Public Buildings.</i>			
Sec. 57. Insurance	\$ 5,000.00	\$ 7,500.00	\$ 7,500.00
<i>West Virginia Schools for the Deaf and Blind.</i>			
Sec. 58. For current expenses.	\$ 40,000.00	\$ 50,000.00	\$ 50,000.00
For repairs and improvements.	7,500.00	10,000.00	10,000.00
<i>West Virginia University.</i>			
Sec. 59. For current expenses.	35,000.00	45,000.00	45,000.00
For repairs and improvements.	10,000.00	20,000.00	10,000.00
For salaries of teachers, officers and employes	90,000.00	105,000.00	118,000.00
For agricultural, horticultural and home economics exten- sion work	15,000.00	30,000.00	35,000.00
For buildings	20,000.00	20,000.00	20,000.00
For college of medicine	3,000.00	4,000.00	5,000.00
<i>Preparatory Branch of University at Montgomery.</i>			
Sec. 60. For current expenses.	\$ 2,250.00	\$ 3,450.00	\$ 3,450.00
For repairs and improvements.	2,000.00	2,000.00	2,000.00
For salaries of teachers, officers and employes	6,500.00	7,500.00	8,000.00
For salary of mining instructor.		1,000.00	1,000.00
<i>Preparatory Branch of University at Keyser.</i>			
Sec. 61. For current expenses.	\$ 2,750.00	\$ 3,500.00	\$ 3,500.00
For repairs and improvements.	1,500.00	2,500.00	2,500.00

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
For salaries of teachers, officers and employes	8,000.00	9,000.00	9,500.00
For buildings and land		17,500.00	17,500.00

Marshall College.

Sec. 62. For current expenses.\$	7,000.00	\$ 9,000.00	\$ 9,000.00
For repairs and improvements.	3,000.00	6,000.00	6,000.00
For salaries of teachers, officers and employes	28,000.00	40,000.00	40,000.00
For buildings	15,000.00	15,000.00	15,000.00

Fairmont Normal School.

Sec. 63. For current expenses.\$	7,000.00	\$ 9,000.00	\$ 9,000.00
For repairs and improvements.	3,000.00	6,000.00	6,000.00
For salaries of teachers, officers and employes	21,000.00	28,000.00	28,000.00
Buildings and land		20,000.00	20,000.00

Sec. 64. All money received by the state board of control from any source, on account of institutions under its control, shall be paid into the state treasury at least once each month to the credit of the institution and fund for which received, and shall remain in the treasury until expended on order of the state board of control or otherwise disposed of by law. There is hereby appropriated so much of the moneys mentioned in this section as may be necessary for the purposes of any of the institutions for which such moneys are received. But no moneys received on account of one institution or fund shall be used for any other institution or fund.

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
Sec. 65. For compensation of institute instructors provided for in section one hundred and eight of chapter forty-five of the code, as amended by the acts of one thousand nine hundred and eight, to be paid out of the general school fund ..		\$ 8,000.00	\$ 8,000.00
Sec. 66. For the distribution of the general school fund such an amount is hereby appropriated as may be duly apportioned by the state superintendent of free schools to each county, payable out of the general school fund.			

State Tuberculosis Sanitarium.

Sec. 67. Current expenses ...	\$ 15,000.00	\$ 20,000.00	\$ 20,000.00
Buildings and land	4,500.00	10,000.00	10,000.00
Repairs and improvements	5,000.00	10,000.00	10,000.00

Gettysburg Semi-Centennial.

Sec. 68. To pay the transportation expenses of ex-union and ex-confederate soldiers to the semi-centennial of the battle of Gettysburg, such fund to be administered by Governor H. D. Hatfield, \$8,000.00 or so much thereof as may be necessary.

Sec. 69. For the payment of the county superintendents of free schools, to be paid out of the general school fund, according to the provisions of sections one hundred and

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
eighteen and one hundred and nineteen, of chapter forty- five of the code	\$ 42,000.00	\$ 56,000.00	\$ 56,000.00
<i>Supplemental Aid to Schools.</i>			
Sec. 70. For supplemental aid for teachers' fund	\$ 56,250.00	\$ 75,000.00	\$ 75,000.00
For supplemental aid for build- ing fund	11,250.00	15,000.00	15,000.00
Both items in this section to be paid out of the general school fund.			
<i>Printing, etc., for Free School Department.</i>			
Sec. 71. For printing, binding and stationery for the office of the state superintendent of free schools, to be paid out of the general school fund	\$ 7,000.00	\$ 11,000.00	\$ 12,000.00
<i>Clerks and Contingent Expenses for the Office of State Superin- tendent of Free Schools.</i>			
Sec. 72. For salary of chief clerk in the office of superin- tendent of free schools	\$ 1,350.00	\$ 1,800.00	\$ 1,800.00
For salaries of other clerks in the office of the superintendent of free schools	4,155.00	5,540.00	5,540.00
For salary of stenographers for the office of state superin- tendent of free schools	1,350.00	1,800.00	1,800.00
For contingent and current ex- penses of office of the superin- tendent of free schools	2,250.00	3,000.00	3,000.00
For purchase of books for office of state superintendent of free schools	37.50	50.00	50.00
For the per diem and expenses of the state board of education..	750.00	1,000.00	1,000.00
For expenses to be incurred by			

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
the state superintendent of free schools under the provisions of article twelve, section two, of the constitution, or so much thereof as may be necessary for said purpose..\$	375.00	500.00	500.00
All of the appropriations provided for in this section to be paid out of the general school fund.			

Uniform Examinations.

Sec. 73. For expenses of conducting the uniform examinations, as provided for in section eighty-one of chapter forty-five of the code, as amended by chapter twenty-seven of the acts of one thousand nine hundred and eight, to be paid out of the general school fund	\$ 5,600.00	\$ 8,600.00	\$ 8,600.00
---	-------------	-------------	-------------

Erroneous Assessments.

Sec. 74. For refunding taxes assessed, collected and paid into the treasury to be paid out of the funds into which the taxes were paid, such an amount as may be necessary for such purpose.

Erroneous Payments into the Treasury.

Sec. 75. For refunding moneys, erroneously paid into the treasury, such sum is hereby appropriated as may be erroneously so paid, payable out of the same fund into which paid.

Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
---	---	---

Re-Printing and Binding Supreme Court Reports.

Sec. 76. For re-printing and binding old volumes of the reports supreme court of appeals, where edition is exhausted, the work to be done under the direction and supervision of the attorney general. \$ 3,000.00 \$ 4,000.00 \$ 4,000.00

For Pay of State Agents.

Sec. 77. For compensation of state agents, such amount is hereby appropriated as may be necessary to pay commission of state agents, payable out of the fund collected; *provided*, that in no case shall the amount so paid exceed ten per centum of the funds collected and paid into the treasury by any such agent.

Sec. 78. For providing for the expenses of state building and a suitable exhibit of the resources of the state of West Virginia at the Panama Pacific exposition at San Francisco in one thousand nine hundred and fifteen, such money to be expended upon the requisition of a commission of five, which the governor is hereby authorized to appoint after March fourth, one thousand nine hundred and thirteen, for said purposes, and all expenditures made out of said appropriations

	Nine months Ending June 30, 1913.	Fiscal Year Ending June 30, 1914.	Fiscal Year Ending June 30, 1915.
shall be at the discretion and upon the approval of the state board of control		\$ 15,000.00	\$ 60,000.00

Miscellaneous Appropriations.

Sec. 79. For the payment of the following miscellaneous items, the sums set opposite each item are hereby appropriated.

Chesapeake & Potomac Telephone Co.....	\$	40.50
To pay H. L. Downtain amount due for services in posting and closing up books of warrant clerk in Senate		75.00
For the payment of rental typewriters for use of senate and house, or so much thereof as may be necessary, payable on orders of the clerks of the senate and house, respec- tively		100.00
Barrett & Shipley Co., for furniture for use of senate and house offices		175.00
Dawley Furniture Co., for furniture furnished for use of senate and house		63.50
P. A. Donovan, electric lights, globes, desk lights, etc., for the use of the senate		112.00
To pay the H. O. Baker Co. for furniture furnished the house of delegates and senate		210.00
To pay S. Spencer Moore & Co. for supplies furnished to the house of delegates and senate		55.80
To pay W. S. Melton, broker, under clause "f," Wheeling, rebate for license at Parkersburg from December twenty- ninth, one thousand nine hundred and eleven, to June thirteenth, one thousand nine hundred and twelve, period in which he could not conduct his business		250.61
To A. N. Eagan, clock for use of senate		26.51
To Eskew, Smith & Cannon, bowls, pitchers, etc., for the use of the senate committee rooms		19.51
To Harry Gates, copy holders for use of senate clerks.....		32.00
To Kanawha Repair Co., amount due for keys, repair of locks, etc., for senate and house		94.90
To Morgan Lumber & Manufacturing Co., blackboard for		

senate chamber	4.50
To pay Mrs. Virgil A. Lewis amount due to late Prof. Virgil A. Lewis, on account of expense as secretary of the Point Pleasant battle monument commission	41.45
To pay John P. Austin, trustee Point Pleasant battle monument commission, balance due him for expenses....	49.10
To pay C. C. Bowyer, trustee Point Pleasant battle monument commission	53.50
To pay to the board of control for the use of Charles W. Campbell to be used in the proper education and maintenance of said Campbell, on account of injuries received while in line of duty as a member of the National Guard and under orders from the governor at Eskdale and in full compensation for said injury	2,000.00
To pay A. W. Woodall interest on amount appropriated by the legislature of one thousand nine hundred and seven, in compensation for injuries, being the interest on the amount appropriated from the date of said appropriation to the date said appropriation was paid	894.17
To pay the Farmers & Merchants' Bank, Morgantown, assignee of Hobbs & Co., balance due on president's house at West Virginia university	1,843.50
To pay Weaver & Zeverly for balance due on president's house at West Virginia university	1,329.16
The last two items above mentioned to be paid only upon the approval and at the discretion of the state board of control.	
To pay G. M. Clinedinst, cleaning windows in house of delegates and senate, session one thousand nine hundred and thirteen, and repairing flag	55.00
To pay Charleston Electrical Supply Co., for lamps, fuses, fuse plugs, tape and supplies furnished for the house of delegates and senate, session one thousand nine hundred and thirteen	121.07
To pay the Charleston Lumber Co., for desk brackets and desk ends furnished the senate, session one thousand nine hundred and thirteen	3.60
To pay Fred N. Carr, administration of oath of office to the members of the house of delegates, session one thousand nine hundred and thirteen, eighty-five members	21.50

To pay Daniels Department Store, linoleum, window shades and work repairing shades, session one thousand nine hundred and thirteen	69.75
To pay W. T. Eisensmith, to repairing clocks in chamber of house of delegates and senate chamber, session one thousand nine hundred and thirteen	5.00
To pay Grossman & Company, for bracing sash, furnishing plate glass and glazing same, for senate chamber, session one thousand nine hundred and thirteen	37.00
To pay Lewis Hubbard & Company, two clothes baskets	2.80
To pay M. C. Lilly & Company, four post flags and express on same	64.45
To pay J. M. Payne, assignee of George Byer, repairing forty-six chairs for the house of delegates, session one thousand nine hundred and thirteen	46.00
To pay D. G. Thompson, swearing in eighty-six members of the house of delegates and four officers, session one thousand nine hundred and seven	22.50
To pay L. B. Farley, amount due on account of extradition of Stanley J. Peters, in March, one thousand nine hundred and eight	162.00
To pay James A. Patterson balance due upon contract for armory rent for company A second regiment infantry, mustered out by the governor	525.00
To pay Katherine deB. Wheatly, for stenographic services rendered in the department of the state fire marshal for which no funds were available at that time and for which claim was put in too late at the last session of the legislature to be placed in the general appropriation bill—to nine and one-half months' work, letters, depositions, etc., from August first, one thousand nine hundred and nine, to May fifteenth, one thousand nine hundred and ten, at twenty-five dollars per month	237.50
To pay West Publishing Company, one hundred and twenty-five copies of the code of one thousand nine hundred and six and one hundred and twenty-five copies of the supplement of one thousand nine hundred and nine	1,125.00
To pay for expenses of inauguration of the Governor-elect H. D. Hatfield, to be paid on order of the governor	2,000.00
To pay the expenses and per diem of the committee raised	

by senate joint resolution No. 22, to investigate and report upon the subject of employers' liability and laborers' compensation laws, passed February twenty-fourth, one thousand nine hundred and eleven, payable upon certificate of chairmen of boards	5,000.00
To pay Kanawha and Hocking Coal and Coke Company, for state taxes erroneously paid into the state treasury	72.02
To pay H. Rus Warne, architect, for services in making plans and specifications for alterations in executive mansion, on order of senate finance committee	25.00
To pay N. C. McNeil balance due him as chairman of board of examiners of public accountants	98.00
To pay the current expenses, including salaries, of the board of agriculture and clerks of same to May thirty-first, one thousand nine hundred and thirteen, inclusive....	1,825.00
To pay the Baltimore Office Supply Company for stationery for thirty members of the senate	225.00
To pay W. F. Carter for cleaning and repairing five typewriters for session of one thousand nine hundred and eleven	12.50
To pay Underwood Typewriter Company for two machines purchased by the house of delegates	127.25

Refunding County, District and Municipal Taxes.

Sec. 80. For refunding to counties, districts and municipal corporations, county, district and municipal taxes paid into the treasury for the redemption of lands, such an amount is hereby appropriated as will be necessary to refund to the counties, districts and municipal corporations entitled thereto, the taxes so paid into the treasury.

For refunding county, district and municipal taxes paid into the treasury by railroad and other companies, such sum is hereby appropriated as will be necessary to refund to each county, district and municipal corporation the amount of such taxes as may be paid into the treasury to the credit of such county, district and municipal corporation.

Overpaid Taxes.

Sec. 81. For refunding overpayment made into the treasury on account of taxes, licenses, fines and commissions, to be paid out of the fund into which they were paid, such an amount as may be necessary for such purpose is hereby appropriated.

Delinquent Taxes.

Sec. 82. The auditor shall credit all delinquent taxes due the state to the fund to which they belong, and the cost of certification and publication of sale shall be paid out of the fund to which they are credited, and so much as may be necessary is hereby appropriated for the payment of the same.

Sec. 83. Wherever the words, "nine months, ending June 30, 1913," are used in this act, it is intended that the amount appearing in the column under such words, shall be hereby appropriated, for the purposes herein named, for the period of nine months, beginning October first, one thousand nine hundred and twelve, and ending June thirtieth, one thousand nine hundred and thirteen, being the period intervening between the end of the fiscal year, ending September thirtieth, one thousand nine hundred and twelve, and the beginning of the new fiscal year, beginning July first, one thousand nine hundred and thirteen, so as to cover the interval occasioned by the passage of the "act to amend and re-enact section nineteen of chapter seventeen, serial section five hundred and sixty-four, code one thousand nine hundred and six, relating to the state fiscal year," passed February six, one thousand nine hundred and thirteen; wherever the words, "fiscal year, ending June 30, 1914," are used in this act, it is intended that the amount appearing in the column under such words shall be appropriated for the purposes herein named for the new fiscal year, beginning July first, one thousand nine hundred and thirteen; and wherever the words, "fiscal year, ending June 30, 1915," are used in this act, it is intended that the amount appearing in the column under such words shall be appropriated for the purposes herein named for the fiscal year, beginning July first, one thousand nine hundred and fourteen.

Be it further enacted by the Legislature of West Virginia:

Sec. 84. The appropriations herein made to or for any state board or institution shall be drawn from the treasury upon the requisition of the proper officers thereof made upon the auditor at such times and in such amounts as may be necessary for the purposes for which such appropriations are made; and the auditor shall pay the amount named in any such requisition at such times and in such installments as shall be necessary for the purpose for which any such appropriation is made. But all requisitions for appropriations for new buildings and substantial betterments, except such as are under control of

the board of control, shall be accompanied by the architect's estimate that the amount named in such requisition is needed for immediate use. All large appropriations for current expenses for institutions shall be disbursed by the auditor in equal monthly installments, if the same are so needed; and the auditor shall not issue his warrants to pay any money out of the state treasury unless the same is needed for present use.

The members of all state boards, and of boards of regents or of directors of state institutions, unless a different rate of compensation is provided by law, shall be allowed four dollars per day for each day necessarily employed as such (including the time spent in going to and returning from the place of meeting) and the actual and necessary expenses incurred by them in the discharge of their duties, and no mileage shall be paid. But before payment to any such member of any such compensation or expenses, he shall make up in duplicate and certify to its correctness an itemized statement of the number of days spent (giving dates) and of the expenses, which statement shall be filed with the secretary or clerk of the institution, the original whereof the secretary or clerk shall file or preserve in his office, and the duplicate he shall at once forward to the auditor. If any such member shall wilfully make a greater charge for such services or expenses than the truth justifies, he shall be guilty of embezzlement and punished accordingly.

Sec. 85. Every officer, employe, head of department or of an institution or of a board to which appropriation or allowance is made for clerk hire, pay of assistants or of stenographers, shall, in their biennial report to the governor for transmission to the legislature, give the name of each of such clerks, assistants or stenographers employed by them during such period, the amount paid to each and (except where temporarily employed) the rate per month of such payment. And every officer, employe, head of a department or of an institution or of a board authorized to draw money from the treasury, or to expend any appropriation, shall, in their biennial report to the governor for transmission to the legislature, make a fully itemized statement of every expenditure made by each of them, to whom paid and for what purpose. If any officer, employe, head of a department or of an institution or of a board is not required by law to make a report to the governor, he or it shall nevertheless make a report as required by this section, except that the state board of

control shall only be required to report as provided by chapter fifty-eight of the acts of one thousand nine hundred and nine.

Sec. 86. All printing, binding and printing paper and stationery for the state superintendent of free schools shall be paid for out of the general school fund. No printing, binding or printing paper or stationery for the following named boards, officers or institutions shall be paid for out of the appropriation for public printing, public binding, or for supplying paper or stationery, but shall be paid for out of the appropriations therefor herein made, or out of the expense fund or contingent expense fund thereof, namely:

Board of dental examiners, state vaccine agents, commissioners of pharmacy, state board of examiners, state board of agriculture, state board of embalmers, bureau of labor, miners' hospitals, West Virginia humane society, normal schools, schools for the deaf and the blind, the university and all its departments and branches, (including the experiment station) the hospitals for the insane, reform school, the colored institute, the industrial home for girls and the West Virginia asylum. Such boards, officers and institutions, except the state superintendent of free schools, that are herein required to pay for their own printing, stationery and printing paper and binding, have authority to procure the same, or have the same done on requisition of the superintendent of public printing, or may buy such printing paper and stationery, or have such printing and binding done on competitive bids, under such rules as may be made by the commissioners of public printing.

When stationery or printing paper is procured from the superintendent of public printing, or printing and binding are done on requisition on his office, by any such board, officers and institutions, the superintendent of public printing as to such printing, binding, stationery and printing paper, shall certify the cost thereof to the auditor, stating to what officer, board or institution the same was furnished, and the auditor shall charge against the proper fund or appropriation of such officers, institution or board the amount thereof, and credit such amount to the proper appropriation made by this act for public printing, binding, stationery, and printing paper. *Provided*, that the annual or biennial reports required by law to be made to the governor by such board, officers and institutions shall be printed and paid for out of the appropriation for public printing, public binding and for supplying printing paper and stationery, but all such reports shall be typewritten, or prepared in such a manner that the same shall be

legible and suitable for printers' copy, and only so much of any such reports shall be printed as may be ordered by the governor; and no such reports shall be printed by the public printer except on requisition therefor, signed by the governor, which requisition shall state the number to be printed and how the same are to be bound. Such officers, boards and institutions as are required by law to make a report to the governor shall place the same in his hands within thirty days after the close of the period which they are to cover.

Sec. 87. No sum of money shall be paid out of the treasury for the nine months ending June thirtieth, one thousand nine hundred and thirteen, nor during the fiscal years ending June thirtieth, one thousand nine hundred and fourteen, and one thousand nine hundred and fifteen, beyond the amounts hereby appropriated, unless the same be provided for by the constitution or some general law.

Sec. 88. Upon the adjournment of this session of the legislature, the clerk of the house and the clerk of the senate shall jointly make up and furnish the auditor, without delay, a certified copy of this and all other acts carrying appropriations.

(House Bill No. 1.)

CHAPTER 4.

AN ACT making appropriations of public money to pay the per diem and mileage of the members of the legislature for the extraordinary session of one thousand nine hundred and thirteen, and for salaries of the officers and attaches thereof.

(Passed January 28, 1913. In effect from passage. Approved by the Governor January 29, 1913.)

SEC.

1. Appropriation.
Per diem and mileage of delegates.
Per diem and compensation of officers of the house, assistant clerks and other employes.
Per diem and mileage of senators.

SEC.

- Per diem and compensation of officers and other employes of the senate.
Per diem of janitor, assistants and charwomen.
2. Authorizing auditor to issue warrants.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That there be and are hereby appropriated out of the public treasury, for the payment of the mileage and per diem of the members of the legislature for the extraordinary session of one thou-

sand nine hundred and thirteen, and the per diem of the officers and attaches thereof, the following sums of money:

House of Delegates.

To pay the per diem of the members, two thousand and seventy-six dollars (\$2,076.00.)

To pay the mileage of the members, three thousand one hundred and twenty dollars and seventy cents (\$3,120.70.)

To pay the per diem of the clerk and for services preliminary to the extraordinary session, one hundred and sixty dollars (\$160.00.)

To pay the per diem of the sergeant-at-arms, thirty dollars (\$30.00.)

To pay the per diem of the doorkeeper, twenty-four dollars (\$24.00.)

To pay the per diem of Rossil A. Corder, floor page, twelve dollars (\$12.00.)

To pay the per diem of George W. Smith, floor page, twelve dollars (\$12.00.)

To pay the per diem of Dorsey A. Farnsworth, floor page, twelve dollars (\$12.00.)

To pay the per diem of Roy Rhodes, floor page, twelve dollars (\$12.00.)

To pay the per diem of Robert L. Wintz, floor page, twelve dollars (\$12.00.)

To pay the per diem of H. C. Anderson, floor page, twelve dollars (\$12.00.)

To pay the per diem of Will Cunningham, floor page, twelve dollars (\$12.00.)

To pay the per diem of Frank Miller, floor page, twelve dollars (\$12.00.)

To pay the per diem of Samuel Kyle, floor page, twelve dollars (\$12.00.)

To pay the per diem of J. W. E. Keeny, floor page, twelve dollars (\$12.00.)

To pay the per diem of Hallie Shannon, journal page, twelve dollars (\$12.00.)

To pay the per diem of W. Don Lewis, journal page, twelve dollars (\$12.00.)

To pay the per diem of Samuel Stephenson, journal page, twelve dollars (\$12.00.)

To pay the per diem of M. M. Riblett, journal page, twelve dollars (\$12.00.)

To pay the per diem of Vernon Jarrett, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of W. P. Scott, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of John Nugent, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of George Ford, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of A. E. Lynch, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of Peter Jones, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of S. O. Smith, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of W. B. Shaver, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of A. S. McDougle, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of Sylvester Curtis, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of J. Buel Swope, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of R. E. Fraley, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of Enza Correll, committee clerk, twenty-four dollars (\$24.00.)

To pay the per diem of L. V. Reed, committee clerk on taxation and finance, thirty-six dollars (\$36.00.)

To pay the per diem of Curtis Hanna, committee clerk on the judiciary, thirty six dollars (\$36.00.)

To pay the per diem of Will A. Strickler, reading clerk, and for services preliminary to the extraordinary session, seventy-two dollars (\$72.00.)

To pay the per diem of Rudenz S. Douthat and Alva B. Moore, desk clerks, thirty-six dollars (\$36.00) each, seventy-two dollars (\$72.00.)

To pay the per diem of L. J. Frey and C. E. Anderson, printing clerks, thirty-six dollars (\$36.00) each, seventy-two dollars (\$72.00.)

To pay the per diem of M. S. Griffin, journal clerk, thirty-six dollars (\$36.00.)

To pay the per diem of May Harmison, journal clerk, thirty-six dollars (\$36.00.)

To pay the per diem of J. L. Bateman, journal clerk, thirty-six dollars (\$36.00.)

To pay the per diem of B. M. Sigler, J. C. Hamilton, E. P. Willis and Roy Compton, engrossing and enrolling clerks, thirty-six dollars (\$36.00) each, one hundred and forty-four dollars (\$144.00)

To pay the per diem of Hugh Lawlis, mailing and banking page, twelve dollars (\$12.00.)

To pay the per diem of Ernest Santrock, floor page, twelve dollars (\$12.00.)

To pay the per diem of Howard S. Jarrett, printing clerk, thirty-six dollars (\$36.00.)

To pay the per diem of W. H. Rumburg, assistant sergeant-at-arms, twenty-four dollars, (\$24.00.)

To pay the per diem of two cloak room attendants, Joe Taylor and M. T. Whittico, thirty dollars (\$30.00.)

To pay the per diem of one night watchman, J. T. Shears, fifteen dollars (\$15.00.)

To pay the per diem of Thomas C. Boyles, assistant doorkeeper, twenty-four dollars (\$24.00.)

To pay the per diem of A. T. Cabell, gallery doorkeeper, twenty-four dollars (\$24.00.)

To pay the per diem of Carleton C. Pierce, private secretary to the speaker, thirty-six dollars (\$36.00)

To pay the per diem of Myrtle Curry, floor stenographer, twenty-four dollars (\$24.00.)

To pay the per diem of L. C. Brisco, floor stenographer, twenty-four dollars (\$24.00.)

To pay the per diem of Lois Moore, floor stenographer, twenty-four dollars (\$24.00.)

To pay the per diem of Grace D. Cole, floor stenographer, twenty-four dollars (\$24.00.)

To pay the per diem of Miss Payton, floor stenographer, twenty-four dollars (\$24.00.)

To pay the per diem of Helen S. Brooke, stenographer to the committee on taxation and finance, thirty-six dollars (\$36.00.)

Senate.

To pay the per diem of the members, seven hundred and thirty-two dollars (\$732.00.)

To pay the mileage of the members, one thousand one hundred and eighty dollars (\$1,180.00.)

To pay the clerk and for services preliminary to the extraordinary session, one hundred and sixty dollars (\$160.00.)

To pay the per diem of James R. Mehen, sergeant-at-arms, thirty dollars (\$30.00.)

To pay the per diem of J. M. Dorsey, doorkeeper, twenty-four dollars (\$24.00.)

To pay the per diem of Mont Carper, assistant doorkeeper, eighteen dollars (\$18.00.)

To pay the per diem of Boisy Green, cloak room attendant, eighteen dollars (\$18.00.)

To pay the per diem of two expert desk clerks, Homer Gray and F. H. Scott, seventy-two dollars (\$72.00.)

To pay the per diem of W. C. Hedrick, printing clerk, thirty-six dollars (\$36.00.)

To pay the per diem of C. F. Harden, journal clerk, thirty-six dollars (\$36.00.)

To pay the per diem of A. O. Johnson, journal clerk, thirty-six dollars (\$36.00.)

To pay the per diem of two stenographers, Gertrude McCray and Mrs. C. N. Sims, sixty dollars (\$60.00.)

Janitors.

To pay the per diem of the janitor, extra compensation during the special session of the legislature, as provided by section one of chapter eleven of the code, at three dollars per day, eighteen dollars (\$18.00)

To pay the per diem of ten assistants to the janitor during the special session of the legislature, as provided in section one of chapter eleven of the code, at three dollars per day, one hundred and eighty dollars (\$180.00.)

To pay the per diem of two charwomen, during the special session of the legislature at two dollars per day, twenty-four dollars (\$24.00.)

Sec. 2. The auditor of this state is hereby authorized and directed 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 the 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 Bill No. 194.)

CHAPTER 5.

AN ACT making appropriations of public money to pay the per diem of the members of the legislature for the regular session of one thousand nine hundred and thirteen, and for salaries of the officers and attaches thereof.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 4, 1913.)

<p>SEC. 1. Appropriation. Per diem and mileage of delegates. Per diem and compensation of officers, assistant clerks and other employes of the house of delegates. Per diem and mileage of senators.</p>	<p>SEC. Per diem and compensation of officers, assistant clerks and other employes of the senate. Per diem of janitor, assistants, and charwomen during session. 2. Authorizing auditor to issue warrants.</p>
--	--

Be it enacted by the Legislature of West Virginia:

Sec. 1. That there be and are hereby appropriated out of the public treasury for the payment of the per diem of the members of the legislature for the session of one thousand nine hundred and thirteen and the per diem of the officers and attaches thereof the following sums of money:

House of Delegates.

To pay the per diem of the members, fifteen thousand five hundred and seventy dollars (\$15,570.00.)

To pay the per diem of the clerk, five hundred and fifty dollars (\$550.00.)

To pay the per diem of the sergeant-at-arms, two hundred and twenty-five dollars (\$225.00.)

To pay the per diem of the assistant sergeant-at-arms, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the doorkeeper, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the assistant doorkeeper, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the gallery doorkeeper, one hundred and eighty dollars (\$180.00.)

To pay the per diem of two cloak room attendants, one hundred and thirty-five dollars each, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the day watchman, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the night watchman, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the librarian, one hundred and eighty dollars (\$180.00.)

To pay the salary of the chaplain for the session, one hundred dollars (\$100.00.)

To pay the per diem of sixteen committee clerks, two thousand eight hundred and eighty dollars (\$2,880.00.)

To pay the per diem of the clerk of the committee on taxation and finance, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the clerk of the judiciary committee, two hundred and seventy dollars (\$270.00.)

To pay the per diem of nine floor pages, eight hundred and ten dollars (\$810.00.)

To pay the per diem of mailing and banking page, one hundred and eighty dollars (\$180.00.)

To pay the per diem of five journal pages, nine hundred dollars (\$900.00.)

To pay the per diem of six floor stenographers, one thousand and eighty dollars (\$1,080.00.)

To pay the per diem of the stenographer of the committee on taxation and finance, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the stenographer of the committee on the judiciary, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the private secretary to the speaker, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the stenographer to the speaker, two hundred and seventy dollars (\$270.00.)

To pay the per diem of Harry W. Hays, special clerk, two hundred and seventy dollars (\$270.00.)

To pay the per diem of two desk clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of the reading clerk, two hundred and seventy dollars (\$270.00.)

To pay the per diem of two assistant journal clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of two printing clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of two assistant printing clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of the bill record clerk, two hundred and seventy dollars (\$270.00.)

To pay the per diem of two engrossing clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of two enrolling clerks, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of the stenographer to the clerk, two hundred and seventy dollars (\$270.00.)

To pay the per diem of one journal clerk, two hundred and seventy dollars (\$270.00.)

To pay the per diem of one assistant bill record clerk, two hundred and seventy dollars (\$270.00.)

Senate.

To pay the per diem of the members, five thousand four hundred and ninety dollars (\$5,490.00.)

To pay the per diem of the clerk, five hundred and fifty dollars (\$550.00.)

To pay the per diem of the sergeant-at-arms, two hundred and twenty-five dollars (\$225.00.)

To pay the per diem of the doorkeeper, one hundred and eighty-dollars (\$180.00.)

To pay the per diem of the assistant doorkeeper, one hundred and eighty dollars (\$180.00.)

To pay the per diem of the gallery doorkeeper, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of two cloak room attendants, one hundred and thirty-five dollars each, two hundred and seventy dollars (\$270.00.)

To pay the per diem of one day watchman, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of one night watchman, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of one librarian, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of ten committee clerks, one thousand eight hundred dollars (\$1,800.00.)

To pay the per diem of the clerk to the committee on finance, two hundred and seventy dollars (\$270.00.)

To pay the per diem of the clerk to the committee on the judiciary, two hundred and seventy dollars (\$270.00.)

To pay the per diem of seven floor pages, nine hundred and forty-five dollars (\$945.00.)

To pay the per diem of the mailing and banking page, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of three journal and bill pages, four hundred and five dollars (\$405.00.)

To pay the per diem of six expert stenographers, one thousand three hundred and fifty dollars (\$1,350.00.)

To pay the per diem of one chief stenographer, two hundred and seventy dollars (\$270.00.)

To pay the per diem of two desk clerks, expert stenographers, two hundred and seventy dollars each, five hundred and forty dollars (\$540.00.)

To pay the per diem of one stenographer in the clerk's office, two hundred and twenty-five dollars (\$225.00.)

To pay the per diem of two journal clerks and two assistant journal clerks, nine hundred dollars (\$900.00.)

To pay the per diem of two bill record clerks, four hundred and fifty dollars (\$450.00.)

To pay the per diem of two printing clerks and two assistant printing clerks, nine hundred dollars (\$900.00.)

To pay the per diem of two engrossing clerks and two enrolling clerks, nine hundred dollars (\$900.00.)

To pay the per diem of one warrant clerk and bookkeeper, two hundred and twenty-five dollars (\$225.00.)

To pay the per diem of one bill editor and one assistant bill editor, four hundred and fifty dollars (\$450.00.)

Janitors.

To pay the per diem of the janitor, extra compensation during the regular session of the legislature, as provided by section one of chapter eleven of the code, at three dollars per day, one hundred and thirty-five dollars (\$135.00.)

To pay the per diem of ten assistants to the janitor during the regular session of the legislature, as provided in section one of chapter eleven of the code, at three dollars per day, one thousand three hundred and fifty dollars (\$1,350.00.)

To pay the per diem of two charwomen during the regular session of the legislature, at two dollars per day each, one hundred and eighty dollars (\$180.00.)

Sec. 2. The auditor of this state is hereby authorized and directed to issue his warrants upon the treasury from time to time for such amounts as are or may become due to the several members, officers and attaches of the senate and the house of delegates and janitors' help, upon the request of the clerk of the senate and the sergeant-at-arms of the house of delegates, respectively. The three items in regard to janitor and assistants to be paid one-half out of the senate contingent fund and one-half of the house contingent fund.

(House Bill No. 100.)

CHAPTER 6.

AN ACT making appropriations of public money on account of the contingent expenses of the legislature of one thousand nine hundred and thirteen.

(Passed February 6, 1913. In effect from passage. Approved by the Governor February 7, 1913.)

<p>SEC. 1. Appropriation for contingent expenses of the senate and house of delegates.</p>	<p>SEC. 2. Supplies, how purchased. 3. Auditor authorized to issue warrants upon the treasurer.</p>
--	---

Be it enacted by the Legislature of West Virginia:

Sec. 1. That there is hereby appropriated out of the public treasury the following sums of money on account of the contingent expenses of the present session of the legislature:

For contingent expenses of the senate, one thousand five hundred dollars, or so much thereof as may be necessary for said purpose.

For contingent expenses of the house of delegates, two thousand dollars, or so much thereof as may be necessary for said purpose.

Sec. 2. No supplies shall be purchased for either house, except upon resolution, or upon an order signed by the president of the senate and the clerk thereof, or by the speaker of the house and the clerk thereof.

Sec. 3. The auditor is hereby authorized and directed to issue his warrants upon the treasurer for such amounts as may be necessary and may be authorized or directed by the resolution of either house to be paid.

(House Bill No. 379.)

CHAPTER 7.

AN ACT making appropriation of moneys out of the treasury to pay charges and expenses incurred in suppressing insurrection and executing the laws in the Kanawha valley in the year one thousand nine hundred and twelve, under the proclamation of the governor.

(Passed February 13, 1913. In effect from passage. Approved by the Governor February 17, 1913.)

SEC.

1. Appropriations to pay notes of the state executed by the governor for the purpose of raising money to pay the militia and other charges and expenses in suppressing insurrection and executing laws in the Kanawha

SEC.

valley, 1912, to pay interest on notes, to pay outstanding indebtedness, and reimburse the civil contingent fund for sums expended therefrom for said purpose.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There is hereby appropriated out of moneys now in the treasury the sum of one hundred and ninety thousand dollars (\$190,000.00) to pay notes of the state executed by the governor for the purpose of raising money to pay the militia and other charges and expenses in suppressing insurrection and executing the laws in the Kanawha valley in the year one thousand nine hundred and twelve; and the further sum of six thousand dollars (\$6,000.00), or so much thereof as may be necessary, to pay the interest on said notes; which said notes are fully set out and described in the report and audit made to the governor by the state tax commissioner as chief inspector under chapter thirty-three of the acts of one thousand nine hundred and eight, and all the expenses incurred thereby; and the further sum of thirty-eight thousand dollars (\$38,000.00); or so much thereof as may be necessary, for the purpose of paying the outstanding indebtedness and unpaid bills and accounts so incurred and outstanding, as shown by said report and audit to the governor; and the further sum of ten thousand, forty-four and forty-two one-hundredths dollars (\$10,044.42) to reimburse the civil contingent fund for sums expended therefrom for said purpose.

The auditor is hereby directed to pay said sums upon the requisition of the governor.

(Senate Bill No. 63.)

CHAPTER 8.

AN ACT creating the office of hotel inspector and providing for the inspection of hotels and restaurants.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 24, 1913.)

- | Sec. | Sec. |
|---|---|
| 1. Governor shall appoint hotel inspector; term of office; oath required; bond; shall have experience; salary; expenses; fees collected; certificates. | 13. What must be provided when erecting hotel three stories high or more. |
| 2. State board of health to make rules, etc., approved by attorney general; enforcement; pure food. | 14. Every hotel must be provided with fire extinguisher for each floor of. |
| 3. What deemed hotel or restaurant. | 15. Each hotel shall be provided with public wash room; towels, etc., in private rooms. |
| 4. When application shall be made to hotel inspector, by hotel or restaurant keepers, permits; fees required of hotel and restaurant keepers; certificates of inspection. | 16. Hotels and restaurants shall post prices. |
| 5. Certificate shall show. | 17. Keepers shall not knowingly employ any person who has infectious disease. |
| 6. When license may issue. | 18. Penalty for not disinfecting room or bed occupied by person with infectious disease. |
| 7. Keeper shall file written application on form furnished, for inspection; when fee shall be paid. | 19. What bed, bunk or cot shall be provided with. |
| 8. Inspectors duty as to examination; privacy of guest. | 20. What shall be done to bed bugs. |
| 9. Owner shall make changes and alterations to comply with law, when; penalty for refusal to comply. | 21. All notices to inspector shall be in writing. |
| 10. How rooms shall be lighted and ventilated. | 22. Persons who operate or let a building to be used as hotel without complying with this act, guilty of a misdemeanor; penalty. |
| 11. What required at every hotel in towns with water works and sewerage systems. | 23. Prosecuting attorney's duty. |
| 12. Every hotel in towns without a system of water works shall have privies, etc. | 24. This act shall not apply to hotel, etc., where there are less than ten bed chambers; or to "summer hotel;" nor to any hotel where transient rate is one dollar and fifty cents or less per day. |
| | 25. Appropriations of money. |

Be it enacted by the Legislature of West Virginia:

Sec. 1. The governor shall appoint a hotel inspector to hold office at the will and pleasure of said governor. He shall, before entering upon the duties of his office, take the oath of office prescribed by the constitution, and give bond in the penalty of five thousand dollars, which bond when approved by the governor, shall be filed and recorded in the office of the secretary of state. Said hotel inspector shall have had at least five years' experience in conducting a first class American and European hotel, and receive a salary of fifteen hundred dollars per annum, and his actual traveling expenses. He shall keep an accurate itemized account of such expenses and shall file the same quarterly with the secretary of the state board of health, together with an account of all fees collected from applicants for hotel and

restaurant, inspection certificates and of other moneys coming into his hands by virtue of his office.

Sec. 2. The state board of health shall make such rules and regulations not inconsistent with law as in their judgment are necessary to carry out the intent of this act, which rules and regulations shall take effect when approved by the attorney general and the governor. The said hotel inspector shall assist in the enforcement of any orders made by the state board of health, and of the laws of the state respecting pure food, so far as they relate to hotels and restaurants.

Sec. 3. For the purpose of this act, every house where food and lodging is usually furnished to travelers and payment required therefor shall be deemed a hotel, and every place where food without lodging is usually furnished to guests and payment required therefor shall be deemed a restaurant.

Sec. 4. Every person, firm or corporation engaged in the business of conducting a hotel or a restaurant, shall on or before the first day of July, one thousand nine hundred and thirteen, make application as hereinafter prescribed to the hotel inspector for inspection and a certificate thereof, and such inspector, if he shall be unable to make inspection of such hotel or restaurant within thirty days, shall issue to such applicant a temporary permit which shall hold good until a regular inspection is made. After said first day of July, one thousand nine hundred and thirteen, every person, firm or corporation proposing to conduct a hotel or a restaurant, shall apply to the hotel inspector for an inspection and certificate thereof and said inspector shall inspect the premises described in such application as soon thereafter as may be; but if it be impracticable to do so within ten days after receiving such application, said inspector may issue to such applicant a temporary permit as above provided. But one certificate or permit shall be issued where a hotel and restaurant are combined and conducted in the same building and under the same management. Each certificate or permit shall expire on the thirtieth day of June next following its issuance and no hotel or restaurant shall be maintained and conducted in this state after July first, one thousand nine hundred and thirteen, without the certificate of inspection thereof as herein prescribed, which certificate shall be posted in the main public room of such hotel or restaurant, and shall show the date of each inspection and the notations relating thereto by the hotel inspector. No such certificate shall be transferable. The fee for such inspection and certificate or permit shall be for a hotel, two dollars, and

twenty-five cents additional for each bed room in excess of seven; and for a restaurant, two dollars, and twenty-five cents additional for each five chairs or stools, or spaces where persons are fed in excess of the first ten, but no fee shall exceed ten dollars. All such fees shall be paid before the inspection is made by the hotel inspector. Such inspector shall, on the first of each month, pay into the state treasury all fees collected for inspections during the preceding month. Every certificate of inspection or permit under this act shall be made and issued in duplicate.

Sec. 5. Every such certificate shall show that the hotel or restaurant is equipped and conducted according to law, and shall be kept posted in some conspicuous place in such hotel or restaurant. Every such permit shall show, according to the fact, why it is granted, and that the hotel or restaurant is according to law permitted to be kept, and it shall be kept posted in like manner.

Sec. 6. No license to keep a hotel or tavern, eating house or restaurant, and no certificate for such license shall hereafter be authorized or issued unless there be first filed in the county court to which application therefor is made, a certificate of inspection or permit, granted by the hotel inspector as provided in this act. Every such license shall bear on its face a reference to such certificate of inspection or permit.

Sec. 7. The applicant for inspection of a hotel or restaurant shall file with the hotel inspector a written application in form to be prescribed by the state board of health and which shall set forth the name and address of the owner of the building or property to be occupied, and of the agent of any such owner; the name and address of the lessee and manager, if any, of the hotel or restaurant; the location of such hotel or restaurant and a full description of the building or property to be occupied by it and such other matters as may be required by the state board of health. The fee for inspection shall be paid to the hotel inspector when the application is filed with him.

Sec. 8. The hotel inspector shall inspect, or cause to be inspected, at least once annually, every hotel and restaurant in the state. For that purpose he, or any person designated by him, shall have the right of entry and access at any reasonable time to inspect kitchens where food is prepared, pantry and storage rooms pertaining thereto, dining rooms, lunch counters, and every place where articles pertaining to the serving of the public are kept or prepared. The said

inspector shall prohibit the use of any articles not in keeping with cleanliness and good sanitary conditions. He shall also have the right to enter any and all parts of a hotel at all reasonable hours to make such inspection, and every person in the management, or control thereof, shall afford free access to every part of the hotel and render all assistance necessary to enable the inspector to make full, thorough and complete examination thereof, but the privacy of any guest in any room occupied by him, shall not be invaded without his consent.

Sec. 9. Whenever, upon such inspection, it shall be found that any such hotel or restaurant is not equipped, or being conducted in the manner and under the conditions required by the provisions of this act, the hotel inspector shall notify the owner, manager or agent in charge of such hotel or restaurant of such changes or alterations as in the judgment of the hotel inspector may be necessary to effect a complete compliance with the provisions of this act. Such owner, manager or agent, shall thereupon make such alterations or changes as may be necessary to put such buildings and premises in a condition, and conduct it in a manner that will fully comply with the requirements of this act. *Provided, however,* that due time after receiving such notice shall be allowed for conforming to the requirements thereof, which time shall be specified in the notice. Should the changes or alterations directed by such notice not be made in the time specified therein, the said inspector shall proceed against the person, or persons, in default in any court having jurisdiction to enforce the provisions of this act against him or them. Every person, firm or corporation which shall fail or refuse to comply with the provisions of this section, shall be guilty of a misdemeanor and on conviction thereof shall be subject to a fine of five dollars for each and every day such failure or refusal may continue. If such failure or refusal shall continue for thirty days after the notice from the hotel inspector, the inspector may proceed in the circuit court of the county wherein such hotel or restaurant is, for an order closing it. After such order is issued, the building or property shall not again be used for a hotel or a restaurant until a certificate or permit therefor shall have been issued by the hotel inspector, and any disobedience of such order shall be punished as other contempts of court. Reasonable notice shall be given of the application for such order.

Sec. 10. Every hotel and restaurant in this state, shall be properly lighted by day and by night, shall be properly plumbed and ventilated and shall be conducted in every department with strict regard for

the health, comfort and safety of the guests. Such proper plumbing and draining shall be done and maintained according to approved sanitary principles. Such proper ventilation shall be construed to require at least one door and one window in every sleeping room, which window shall permit easy access to the outside of the building, light-well or court. No room shall be used for a sleeping room which does not open to the outside of the building or light-wells, air shafts or courts, and every sleeping room shall have at least one window.

Sec. 11. In every city, town or village where a system of water works and sewerage is maintained for public use, every hotel therein shall, within six months after the passage of this act, be equipped with suitable water closets for the accommodation of guests, which water closets shall be connected by proper plumbing with such sewer system, and be provided with the means of flushing such water closets with the water of such system in such manner as to prevent sewer gas or effluvia arising therefrom. All lavatories, bath tubs, sinks, drains, closets and urinals in such hotels must be furnished and equipped in similar manner, both as to methods and time.

Sec. 12. In all cities, towns or villages not having a system of water works, every hotel shall have properly constructed privies or vaults to receive the night soil, that shall be kept clean and well screened at all times, and free from all filth of every kind. The privies shall have separate compartments for each sex, each compartment being properly designated.

Sec. 13. Whenever it shall be proposed to erect a building three stories or more in height, intended for use as a hotel in this state, it shall be the duty of the owner or proprietor of such hotel to construct the same so that one main hallway on each floor above the ground floor shall run to an opening in the outside wall of the building. Every building used as a hotel after the passage of this act must comply with the provisions of the code of West Virginia pertaining to fire escapes. All fire escapes shall be indicated by a red light and a placard in each hallway leading to such fire escapes.

Sec. 14. Every hotel shall be provided with one fire extinguisher of style and size approved by the national board of fire underwriters, on each floor containing twenty-five hundred square feet of floor area; and one additional fire extinguisher on each floor for each additional twenty-five hundred square feet of floor room, or fraction thereof. Every such extinguisher shall be placed in a con-

venient location in the public hallway, outside of sleeping rooms, at or near the head of stairs, and shall always be in condition for use.

Sec. 15. All hotels in this state shall be provided with a public wash room convenient and of easy access to guests, and in each bed room and public wash room there shall be furnished for each registered guest clean, individual towels, of cotton or linen, so that no two or more registered guests will be required to use the same towel, unless it has been first washed. Such individual towel shall not be less than twelve inches wide and eighteen inches long after being washed; *provided, however*, roller towels may be placed in main wash rooms for the use of persons other than registered guests of the hotel.

Sec. 16. In every hotel or restaurant a list of its charges for rooms and meals shall be posted in a conspicuous place in its office or main room. *Provided, however*, that the hotels operated on the European, or *a la carte* plan, shall not be required to quote their charges for meals so served.

Sec. 17. No person, firm or corporation engaged in conducting a hotel or a restaurant, shall knowingly have in their employ any person who has an infectious, contagious or communicable disease.

Sec. 18. Every person keeping or conducting a hotel shall see that every room or bed which has been occupied by any person known to have an infectious, contagious or communicable disease at the time of such occupancy, is thoroughly disinfected by methods to be prescribed by the state board of health before said room shall be occupied by any other person. Any person violating the provisions of this section shall be subject to a fine not exceeding three hundred dollars, and to confinement in jail not exceeding six months, or both, at the discretion of the court.

Sec. 19. Every hotel shall after July first, one thousand nine hundred and fourteen, provide each bed, bunk, cot or other sleeping place for the use of guests with pillow slips and under and top sheets, the under sheet to be of sufficient size to completely cover the mattress and springs and the top sheet to be of like width and at least ninety-nine inches long and not to be less than ninety inches in length after having been laundered. Such sheets and pillow slips shall be made of white cotton or linen, and all such sheets and pillow slips after being used by one guest must be washed and ironed before being used by another guest, a clean set being furnished each succeeding guest. All bedding, including mattresses, quilts, blankets, pillows, and all carpets and floor

covering used in any hotel in this state, must be thoroughly aired, disinfected and kept clean.

Sec. 20. In every hotel, any room infected with vermin or bed bugs shall be fumigated, disinfected and renovated until said vermin or bed bugs are extirpated.

Sec. 21. All notices to be given by the hotel inspector shall be in writing and shall be delivered either in person or sent by registered mail.

Sec. 22. Any person, firm or corporation who shall operate a hotel or a restaurant in this state, or who shall let a building to be used for such purposes, without first having complied with the provisions of this act, shall be guilty of a misdemeanor and shall be fined the sum of five dollars for each day such failure to comply shall continue.

Sec. 23. The prosecuting attorney of each county in this state is hereby authorized and required, upon complaint on oath of the hotel inspector, or other person or persons, to prosecute to termination before any court of competent jurisdiction, in the name of the state, a proper action or proceeding against any person, or persons, violating the provisions of this act.

Sec. 24. The provisions of this act shall not apply to any hotel or boarding house wherein there are fewer than ten bed chambers, nor to any hotel or boarding house known as a "summer hotel" which is not open for guests from November fifteenth to May fifteenth, nor to any hotel where the transient rate is one dollar and fifty cents per day or less.

Sec. 25. To carry into effect the provisions of this act, the following appropriations of money out of the state treasury are hereby made, namely: for the fiscal year beginning July first, one thousand nine hundred and thirteen, for contingent expenses and traveling expenses, six hundred and twenty-five dollars; and for the fiscal year beginning July first, one thousand nine hundred and fourteen, for the same purposes, one thousand five hundred dollars. For salary of inspector for the year one thousand nine hundred and thirteen, seven hundred and fifty dollars; for salary of inspector for the year one thousand nine hundred and fourteen, one thousand five hundred dollars.

(Senate Bill No. 31.)

CHAPTER 9.

AN ACT to create a public service commission and to prescribe its powers and duties, and to prescribe penalties for the violation of the provisions of this act.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

- | | |
|---|---|
| <p>Sec.</p> <ol style="list-style-type: none"> 1. Commission created; to be appointed by the Governor; term; vacancy, how filled; may be removed; record to be kept by; qualification; organization; legal services; members prohibited from; may employ secretary and other employes; compensation and how paid; general office at capitol; office hours; hearings. 2. May prescribe rules of procedure. 3. Jurisdiction; shall include. 4. Persons engaged in public service business required to. 5. Power given commission to investigate and to change rates; order in force. 6. Rebating, etc., prohibited. 7. Shall not give preference or advantage. 8. Common carriers shall afford facilities for interchange of traffic, etc.; trunk lines shall not discriminate. 9. Rates, fares, etc., shall not be changed, when. 10. Commission has general supervision; may appoint inspectors. 11. Complaints, how made to commission. | <p>SEC.</p> <ol style="list-style-type: none"> 12. Public service corporation shall file schedules open to public inspection. 13. Hearings by commission; aid of circuit court may be invoked; shall not excuse witness from testifying. 14. Commission shall collect information of value. 15. A special license fee required of all public service corporations; appropriation to pay salaries, etc. 16. Appeals may be taken to supreme court; proceedings; hearing shall have precedence. 17. Penalty for the violation of the provisions of this act. 18. Complaint for damages may be made to commission. 19. Secretary shall keep record; seal shall be adopted; schedule of fees to be charged; fees, where paid. 20. Free transportation to whom; reduced rates may be granted; free service in exchange. 21. Commission may require information, etc. 22. Conflicting acts repealed. |
|---|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. A commission is hereby created by the name of public service commission, which shall be composed of four members, who shall be appointed by the governor, by and with the advice and consent of the senate. The first commissioners shall be appointed in the month of May, one thousand nine hundred and thirteen, and shall continue in office for the term of two, four, six and eight years, respectively, from the first day of May, one thousand nine hundred and thirteen, the term of each to be designated by the governor; but their successors shall be appointed for the term of eight years each, except that any person appointed to fill a vacancy shall serve only for the unexpired term of the commissioner whom he succeeds. Any commissioner may be removed by the governor for incompetency, neglect of duty, gross immorality or malfeasance in office, after giving

him notice and a copy of the charges and the right to be heard in an investigation of the truth thereof. A record of the proceedings, including the evidence, shall be kept. Not more than two shall belong to the same political party. One member shall be a lawyer of not less than ten years actual experience at the bar. The commission shall organize by electing one of its members chairman. The concurring judgment of three of the commissioners shall be deemed the action of the commission. The attorney general shall perform all legal services required by the commission under the provisions of this act.

No person while in the employ of or holding any official relation to any public service corporation, subject to the provisions of this act, or holding any stock or bonds thereof, or who is pecuniarily interested therein, shall enter upon the duties of or hold said office. Nor shall any of said commissioners be a candidate for or hold any public office, or be a member of any political committee while acting as such commissioner; nor shall any commissioner or employe of said commission receive any pass, free transportation or other thing of value, either directly or indirectly, from any person, firm or corporation subject to the provisions of this act; and in case any of said commissioners shall become a candidate for any other public office, or shall become a member of any political committee, his office as commissioner shall be *ipso facto* vacated.

The commission is hereby empowered and directed to employ a secretary, who shall hold that position at the pleasure of the commission, and such other employes as may be necessary to carry out the purpose of this act. The secretary and all other employes shall perform such duties as may be prescribed by the commission, not inconsistent with law. The compensation of the secretary and all other employes shall be fixed by the commission at such sum as their services are reasonably worth. The actual expenses necessarily incurred by the commissioners and employes while absent from the general office of the commission and engaged about the business of the commission, shall be paid as other claims against the state are paid, out of any appropriation for such purpose, upon an itemized statement thereof rendered monthly by the secretary, under his oath, and approved by the commission.

Each of the commissioners shall receive a salary of six thousand dollars per annum, to be paid monthly. The general office shall be kept at the capitol of the state, and kept open each working day

between the hours of nine o'clock, A. M., and five o'clock, P. M., and in charge of the secretary or some other competent person. But hearings and the taking of evidence may be had at such times and places and in each particular case as the commission may designate.

Sec. 2. The commission shall prescribe the rules of procedure and for taking evidence in all matters that may come before it, and enter such final orders as may be just and lawful.

In the investigations, preparations and hearings of cases, the commission may not be bound by the strict technical rules of pleading and evidence, but in that behalf it may exercise such discretion as will facilitate their efforts to understand and learn all the facts bearing upon the right and justice of the matters before them.

Sec. 3. The jurisdiction of the commission shall extend to and include:

(a) Common carriers, railroads, street railroads, express companies, sleeping car companies, freight lines, car companies, toll bridges and ferries; and

(b) Telegraph and telephone companies and pipe line companies for the transportation of oil, gas or water; and

(c) Gas companies, electric lighting companies and municipalities furnishing gas or electricity for lighting, heating or power purposes; and

(d) Hydro-electric companies for the generation and transmission of light, heat or power, and water companies; and

(e) All persons, associations, corporations and agencies employed or engaged in any of the businesses hereinbefore enumerated.

The words "public service corporation" used in this act shall include all persons, association of persons, firms, corporations, municipalities and agencies engaged or employed in any business herein enumerated, or in any other public service business whether above enumerated or not, whether incorporated or not. The commission shall also perform such duties as may be imposed upon it by law in connection with any workmen's compensation law or fund which may be passed or established.

Sec. 4. Every person, firm or corporation engaged in a public service business in this state shall establish and maintain adequate and suitable facilities and shall perform such service in respect thereto as shall be reasonable, safe and sufficient, and in all respects just and fair. All charges, tolls, fares and rates shall be just and reasonable. Every railroad company shall permit switch connections for

intrastate business to be made with its tracks at suitable and safe points, by other carriers or shippers, upon such terms and conditions as the commission may prescribe, whenever the business to be offered by the connecting company or shipper, in the judgment of the commission, justifies it. Every railroad and other transportation company may be required by the commission to establish and maintain such suitable public service facilities and conveniences as may be reasonable and just; and to make reasonable connection with trains on branch lines of such railroads and with all connecting railroad lines; and may prescribe the number of men required to constitute safe crews for the handling of trains.

Sec. 5. The commission is hereby given the power to investigate all methods and practices of public service corporations, and to require them to conform to the laws of the state. The commission may compel obedience to its lawful orders by proceedings of mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the supreme court of appeals direct, and such proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge or toll which is unjust or unreasonable and may prescribe such rate, charge or toll as would be just and reasonable, and change or prohibit any practice, device or method of service in order to prevent undue discrimination or favoritism as between persons, localities or classes of freight; *provided*, that the commission shall not reduce any rate, toll or charge within ten years after the completion of the railroad or plant to be used in the public service below a point which would prevent such public service corporation, person, persons or firm from making a net earning of eight per cent per annum on the cost of the construction and equipment of said railroad or plant. But in no case shall the rate, toll or charge be more than the service is reasonably worth, considering the cost thereof.

Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in such order, or until revoked or modified by the commission, unless the same be suspended, modified or revoked by order or decree of a court of competent jurisdiction.

Sec. 6. No public service corporation subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive

from any person, firm or corporation, a greater or less compensation for any service rendered or to be rendered, than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service under the same or substantially similar circumstances and conditions.

Sec. 7. It shall be unlawful for any public service corporation subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or any particular character of traffic or service, in any respect whatsoever, or to subject any particular person, firm, corporation, company or locality, or any particular character of traffic or service, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever

Sec. 8. All common carriers subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and delivering of passengers and property to and from their several lines, and those connecting therewith, and shall not discriminate in their rates and charges or methods or manner of service between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in a like business.

Trunk lines, or principal railroads, shall, in the distribution of cars and the furnishing of facilities, treat industries and shippers, located on and tributary to lateral, industrial or tap lines, as if they were located directly on the track of the trunk lines or principal railroads, and not discriminate between such industries and shippers and those which may be located in direct proximity to their own tracks. And trunk lines or principal railroads shall allow and pay to the lateral, industrial or tap lines, a reasonable and equitable arbitrary or portion of the rate, consistent with the service rendered, giving due consideration to the fact that such lateral, industrial or tap line originates and assembles the freight. But nothing out of the main line rate shall be allowed the shipper or owner for the use of what may be termed "plant facilities."

Sec. 9. No change shall be made in the rates, fares or charges or joint rates, fares or charges, which have been filed and published by any public service corporation, by any person or corporation, under the purview of this act, except after thirty days' notice to the

commission and to the public, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rates, fares or charges shall go into effect, and the proposed changes shall be shown by printing new schedules, and shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection; *provided, however,* that the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

Sec. 10. The commission shall have general supervision of all persons, firms or corporations having authority under any charter, or franchise of any city, town or municipality, county court, or tribunal in lieu thereof, to lay down and maintain wires, pipes, conduits, ducts or other fixtures in, over or under streets, highways or public places for the purpose of furnishing and distributing gas, or for furnishing and transmitting electricity for light, heat or power, or maintaining underground conduits, or ducts for electrical conductors, or for telegraph or telephone purposes, and for the purpose of furnishing water either for domestic or power purposes and of oil and gas pipe lines.

The commission may ascertain the quantity, healthfulness and quality of the water or quality and quantity of gas or electricity supplied by such persons, firms or corporations, and examine the methods employed, and shall have power to order such improvements as will best promote the public interests and preserve the public health.

The commission shall have power, through its members, inspectors or employes to enter in, upon and to inspect the property, buildings, plants, fixtures, power houses and offices of any such persons, firms, corporations or municipalities, and shall have power to examine the books and affairs to be investigated by it, and shall have the power either as a commission or by any of its members, to subpoena witnesses and take testimony and administer oaths to any witness in any proceeding or examination instituted before it or conducted by it in reference to any matter within its jurisdiction.

The commission shall, when and as necessary, appoint inspectors of gas, electric and water meters, whose duty shall be, when required to inspect, examine, prove and ascertain the accuracy of any gas, electric or water meters used or intended to be used for measuring or ascertaining the quantity of gas, electricity or water furnished for the use of any person, firm or corporation, and when found to be correct,

or made so, the inspector shall stamp or mark each of such meters with some suitable device, which device shall be recorded in the office of the commission. After ninety days from the time this act takes effect no person, firm or corporation shall furnish or put in use any gas, electric or water meter, which shall not have been inspected, proved and stamped or marked by an inspector of the commission. *Provided*, that in case of emergency, gas, electric or water meters may be installed and used before being inspected, but notice thereof shall be immediately given to the public service commission by the public service corporation installing the same, and such meters shall be inspected, proved and stamped or marked, as soon thereafter as practicable. Every gas, electric and water company or corporation shall provide and keep in and upon its premises suitable and proper apparatus, to be approved and stamped, or marked by the commission, for testing and proving the accuracy of gas, electric and water meters furnished for use by it and by which apparatus every meter may and shall be tested on the written request of the consumer to whom the same shall be furnished, and in his presence if he so desires.

If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested. If the same on being so tested shall be found to be four per cent, if an electric or water meter, or two per cent, if a gas meter, from being correct, to the prejudice of the consumer, the inspector shall order the gas, electric or water company forthwith to remove the same and to place instead thereof a correct meter, and the expense of such inspection and testing shall be borne by the company. If the meter, on being so tested, shall be found to be correct, or within four per cent or two per cent of being correct, as the case may be, as above provided, the expense of such inspection and testing shall be borne by the consumer. A uniform charge and rules shall be fixed by the commission for this service. All inspections shall be made as soon as practicable.

Sec. 11. Any person, firm, association of persons, public officer, public or private corporations, municipality or county, complaining of anything done or omitted to be done by any public service corporation subject to the provisions of this act, in contravention of the provisions thereof, or any duty owing by it, under the provisions of this act may present to the commission a petition which shall succinctly state all the facts; whereupon a statement of the charges thus made shall be forwarded by the commission to said public service

corporation which shall be called upon to satisfy such complaint or to answer to the same in writing within a reasonable time to be specified by the commission. If such public service corporation within the time specified shall make reparation for the injury alleged to have been done, or correct the practice complained of and obey the law and discharge its duties in the premises, then it shall be relieved of liability to the complainant for the particular violation of the law or duty complained of. If such public service corporation shall not satisfy the complainant within the time specified, or there shall appear to be any reasonable ground to investigate the complaint, it shall be the duty of the commission to investigate the same in such manner and by such means as it shall deem proper.

Sec. 12. Every public service corporation, subject to the provisions of this act, shall file with the commission and keep open to public inspection, schedules showing all the rates, fares, charges and tolls for service to be rendered by it or by other persons, firms or corporations in connection with it. *Provided, however,* that the reports and tariffs filed by interstate carriers with the public service commission may be copies of its reports and tariffs filed with the interstate commerce commission; but nothing herein shall preclude the public service commission from requiring interstate carriers to furnish information bearing upon any complaint or question pending before the said commission and with which it has a right to deal.

Sec. 13. In all hearings or proceedings before said commission the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing; and in case of disobedience to a subpoena or other process the commission or any party to the proceedings before the commission, may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents. And such court in case of refusal to obey the subpoena issued to any person or to any public service corporation subject to the provisions of this act, shall issue an order requiring such public service corporation or any person to appear before such commission and produce all books and papers, if so ordered, and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof. A claim that any such testimony or evidence may tend to criminate the person giving the same, shall not excuse such witness from testifying, but such witness shall not

be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 14. The commission shall collect full and complete information of the value of all the property owned and controlled by any person or public service corporation subject to the provisions of this act, as of the first day of April, in each year; and tabulate in statistical form and furnish the same to the board of public works on or before the first day of June in each year, which information shall be used by the said board of public works in fixing the value of the property of such person or public service corporation for assessment for the purpose of taxation as provided by law.

Sec. 15. There shall be paid by all public service corporations subject to the provisions of this act a special license fee in addition to those now required by law. Such fee shall be fixed by the auditor upon each of such public service corporations according to the value of its property, as ascertained by the last preceding assessment, and shall be apportioned among such public service corporations upon the basis of such valuation, so as to produce a revenue of sixty thousand dollars per annum, or so much thereof as may be necessary, which shall be paid on or before the twentieth day of January in each year. Such sum of sixty thousand dollars, or so much thereof as may be necessary, is hereby appropriated and set aside for the purpose of paying the salaries, compensations, cost and expenses of the commission, its members and employes, and no other sum shall be appropriated therefor.

Sec. 16. Any party feeling aggrieved by the entry of a final order by the commission, affecting him or it, may present his or its petition in writing to the supreme court of appeals, or to a judge thereof in vacation, within thirty days after the entry of such order, praying for the suspension of such final order. The applicant shall deliver a copy of such petition to the secretary of the commission before presenting the same to the court, or the judge. The court or judge shall fix a time for the hearing on the application, but such hearing shall not be held sooner than five days, unless by agreement of the parties, after its presentation, and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission, so that the commission may be represented at such hearing by one or more of its members or by counsel. If the court or the judge after such hearing be of the opinion that a suspending order should issue, the court or the judge may require bond, upon such conditions

and in such penalty, and impose such terms and conditions upon the petitioner as are just and reasonable. The hearing of the matter shall take precedence over all other matters before the court except the correction of assessments. For such hearing the commission shall file with the clerk of said court all papers, documents, evidence and records or certified copies thereof as were before the commission at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall decide the matter in controversy as may seem to be just and right.

Sec. 17. Every officer, agent, employe, or stockholder of any such public service corporation, and every patron, passenger, shipper or consignee, or other person, who shall violate any provision of this act, or who procures, aids or abets any violation of any such provision by any such public service corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars or be confined in jail not more than one year, or both, in the discretion of the court. When any person is convicted of a violation of any provision of this act, and it is alleged in the indictment on which he is convicted, and is admitted, or by the jury found that he has been before convicted of the violation of any provisions hereof committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than two hundred nor more than two thousand dollars, or be confined in jail not less than thirty days nor more than one year, or both, in the discretion of the court. When any person is convicted of a violation of any provision of this act and it is alleged in the indictment upon which he is convicted, and is admitted, or by the jury found that he has been twice, or oftener, before convicted of a violation of any provisions hereof committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than five hundred nor more than five thousand dollars, and shall, in addition thereto, be confined in the county jail not less than three months nor more than one year.

Sec. 18. Any person, firm or corporation claiming to be damaged by any violation of this act by any public service corporation, subject to the provisions of this act, may make complaint to the commission, as provided herein, and bring suit in his own behalf for the re-

covery of the damages for which such public service corporation may be liable under this act in any circuit court having jurisdiction. In any such action, the court may compel the attendance of any agent, officer, director or employe of such corporation as a witness and require also the production of all books, papers and documents which may be used as evidence, and in the trial thereof such witnesses may be compelled to testify, but any such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 19. The secretary shall keep a record of all proceedings, acts, orders and judgments of the commission, certified copies of which shall be admitted as evidence in any court of this state. The commission shall adopt a seal which shall be affixed to all official papers under such regulations as the commission may prescribe. The commission shall likewise prescribe a schedule of fees to be charged for the certification of all records and papers, and sums to be paid witnesses and other costs necessary and incident to hearings before it, and order the same paid by the unsuccessful party. All sums collected by the secretary, except witness fees, shall be paid by him into the state treasury. The witness fees shall be paid to the person to whom they are allowed. The sums to be paid into the state treasury representing the collections of any month shall be so paid on or before the tenth of the following month.

Sec. 20. Nothing in this act shall be construed to prevent any common carrier from furnishing free transportation to its officers, attorneys, agents and employes, and their families, and like free transportation to the officers, attorneys, agents and employes of other common carriers and their families, mail clerks, expressmen and sleeping car conductors and porters, and reduced rates to all persons engaged in religious, charitable and literary pursuits, and for excursions, and for children and students attending schools and colleges, and for commutation tickets; and, *provided, further*, that nothing in this act shall be construed to prevent telephone, telegraph, sleeping car and express companies from entering into contracts with one another, and with common carriers for the exchange of services, or from exchanging with one another and with common carriers, the privileges of passes or franks for the officers, agents, employes and their families, of such companies and common carriers.

Sec. 21. The commission may at any time require persons, firms, companies, associations, corporations or municipalities, subject to the

provisions of this act, to furnish any information, which may be in its or their possession, respecting rates, tolls, fares, or charges or practices in conducting its or their service, and to furnish the commission at all times for inspection any books or papers or reports and statements, which reports and statements shall be under oath, when required by the commission, and the form of all reports required under this act shall be prescribed by the commission (except as provided in section twelve hereof), which shall collect, receive and preserve the same, and shall annually tabulate and publish the same in statistical form, together with the acts and proceedings of the commission.

Sec. 22. All acts and parts of acts in conflict with this act are hereby repealed.

(House Bill No. 9.)

CHAPTER 10.

AN ACT to provide for the administration of a workmen's compensation fund by the public service commission and to define the powers, duties and liabilities of said commission in respect of said fund, and to provide a method of compensation for employes that may be injured, or the dependents of those killed in the course of their employment, from said fund to be raised and paid into the hands of the state treasurer as herein set forth; and to define and fix the rights of employes and employers; and to define the defenses that may be made by employers in actions for damages arising from death and personal injury; and to provide a method of raising said fund to meet the disbursements that may be ordered to be made under this act, and also to provide for the payment of a proportion of the salaries and expenses of said commission and its employes, and for appeals from the rulings of said commission; and for defining the classes of employers and employes who may bring themselves under this act; and also defining those defenses that those employers not bringing themselves under this act may make in actions for damages arising from death of, or personal injury to, their employes.

- | | |
|--|---|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. The public service commission shall act as body politic; administer workmen's compensation fund; shall be governed by this act. 2. Expenses of the administration of the fund, how paid. 3. The apportionment of salaries and expenses. All payments to be made by state treasurer. 4. Commission shall be in continuous session, except Sundays and holidays; all proceedings shall be recorded and be a public record. 5. A quorum; investigation before any one member when deemed to be order of commission. 6. Office of commission to be at seat of government. 7. May employ secretary and other assistants; expenses of members of commission and assistants to be paid from state treasury upon itemized account sworn to. 8. Commission shall adopt rules to govern its procedure. 9. Who are employers within the meaning of this act. 10. Employer shall furnish information to commission. 11. Employer subject to this act shall notify the commission. 12. Shall have power to administer oaths, etc. 13. Refusal or failure to comply or testify; circuit judge may compel obedience. 14. Fee for serving process and of witnesses. 15. May cause depositions of witnesses. 16. A transcribed copy, when it may be received as evidence. 17. Commissioner shall furnish free of cost blank forms. 18. Classification of industries. 19. Shall establish workmen's fund for the benefit of employes of employers that have paid premiums. 20. State treasurer custodian of workmen's compensation fund; how disbursed. 21. Treasurer shall give additional bond. 22. Employer who shall elect to pay into workmen's compensation fund the premiums, not liable to respond in damages, provided, etc. 23. Each employer electing to pay the premiums shall post notices stating the fact. No employer or employe shall exempt himself by an agreement. 24. The application of this act as between employer and employes shall date from October 1, 1913; premiums shall be paid to the treasurer; deduction to be made by employer; receipt to be given by employer and treasurer; to create a fund available October 1, 1913. | <p>SEC.</p> <ol style="list-style-type: none"> 25. Commission shall disburse fund, to whom. 26. Employers who shall not elect to pay into workmen's compensation fund, or be in default in the payment shall be liable to their employes; defense of fellow servant rule, etc., shall not avail. 27. Shall disburse and pay from the fund for medical, nurse or hospital service not to exceed. 28. No employe shall be entitled to receive any sum from workmen's compensation fund for injury or death self inflicted, by misconduct or intoxication; if death or injury result to employe from deliberate intention of employer, dependent may take under this act and have cause of action. 29. Reasonable funeral expenses shall be paid. 30. No benefit allowed for one week after injury, except. 31. In case of temporary or partial disability, shall receive. 32. In case of total disability. 33. Classification in case injury causes death. 34. Benefits in case of death to be paid to. 35. Benefits to be applied as directed by commission. 36. No benefit to be paid to widow or widower living separate and apart; in event of suit what to be done. 37. The average weekly wage or earnings shall be taken as basis upon which to compute benefits. 38. Payments may be made in periodical installments. 39. To entitle employe to compensation application must be made in due form within six months from date of injury or death; no person excluded as a dependent by reason of. 40. Power and jurisdiction of commission over each case. 41. Commission may commute periodical benefits, when. 42. Benefits before payment exempt from claims of creditors. 43. Commission to hear and determine questions within its jurisdiction; claimant entitled to an appeal when; proceeding to be had, costs, etc. 44. Commission not bound by usual common law rules, etc. 45. Expenditures to obtain statistical information, etc. 46. Annually, report shall be made under oath of at least two members to the governor, which shall include, etc. 47. Commission may sue in the circuit court of Kanawha county, etc. 48. Auditor shall issue warrant for any disbursements, when. 49. Penalty for failure of person or firm to make report, or for making false report. |
|--|---|

- | | |
|--|---|
| <p>SEC.
50. Penalty for attempting to secure larger compensation or longer term than he is entitled to.</p> <p>51. When it is the duty of the board of public works to loan or invest money belonging to workmen's compensation fund.</p> <p>52. The provisions of this act shall apply to employers and employes engaged in intrastate, interstate or foreign commerce, when and how.</p> | <p>SEC.
53. Employer or employe adjudicated to be outside the scope of this act an accounting with the justice of the case shall be had of moneys received.</p> <p>54. May insure in any liability insurance company or companies, etc.</p> <p>55. If the provisions of this act shall be repealed or adjudged invalid, what shall not be computed.</p> <p>56. Conflicting acts repealed.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the commission created by the act entitled, "an act to create a public service commission and to prescribe its power and duties, etc.," passed on the twenty-first day of February, one thousand nine hundred and thirteen, which commission, for the purpose of this act, shall be a body politic and corporate under the name prescribed by said act, and shall administer the workmen's compensation fund provided for in this act. The said commission, in the administration of said fund, shall be governed by the provisions of this act if there be conflict between the same and the provisions of said act creating said commission.

Sec. 2. It is the intent of this act that the expenses of the administration of said fund, including a proportionate share of the salaries or other compensation of the members of said commission, and employes thereof, whose services are connected both with the regulation of public utilities and the administration of said fund, and all other joint expenses, be paid by the state, so that the fund created as hereinafter provided shall be applied solely to the payment of the benefits provided for in this act; and all expenses peculiar to the administration of this act, including the premium to be paid for the bond of the state treasurer required under this act, and salaries or other compensation, traveling and other expenses, of all officers or employes of the commission, whose services are devoted solely to the administration of this act, and all expenses for furniture, books, maps, stationery, appliances and property of all kinds acquired or used solely in connection with the administration of this act, shall be paid by the state; and a justly proportional part of the salaries or other compensation of the members of the commission and other officers and employes thereof who are jointly employed or used, and all expenses of such officers or employes, and all of the expenses for furniture, books, maps, stationery and appliances which are jointly employed or used, shall be paid by the

state; and no expenses herein provided to be paid by the state shall be paid out of or charged to the fund to be raised for the expenses of the commission as provided in said act of February twenty-one, one thousand nine hundred and thirteen, creating said public service commission.

Sec. 3. The apportionment of salaries or other expenses of members and other officers of the commission, employes thereof, and other expenses hereinbefore mentioned, shall be made by the commission at the time of payment, and such apportionment shall be based upon the relative time spent in the service of, or in the relative use of the property or facilities devoted to, the two branches of the work of the commission, respectively. All payments shall be made by the state treasurer upon order or voucher approved and signed by the chairman or acting chairman and secretary of the commission, directed to the auditor of the state, who shall draw his warrant therefor, and any such payment shall be charged to the fund provided by the said act of February twenty-one, one thousand nine hundred and thirteen, for the administration thereof, or to the appropriations which shall be made from time to time hereafter by the state for the administration of this act, or part to such fund and part to such appropriations as may be directed by the commission in each case.

Sec. 4. The commission shall be in continuous session and open for the transaction of business during all the business hours of each and every day, excepting Sundays and legal holidays. All sessions shall be open to the public, and shall stand and be adjourned without further notice thereof on its record. All proceedings of the commission shall be shown on its record of proceedings, which shall be a public record, and shall contain a record of each case considered, and the award with respect thereto and of all salaries or other compensation paid or allowed to any employe of the commission or to any other person for services, and all voting shall be had by the calling of each member's name by the secretary, and each vote shall be recorded as cast.

Sec. 5. A majority of the commission shall constitute a quorum for the transaction of business, and a vacancy shall not impair the right of the remaining members to exercise all the powers of the full commission, so long as a majority remains. Any investigation, inquiries or hearings which the commission is authorized to hold, or undertake, may be held or undertaken by or before any one mem-

ber of the commission, and every order made by a member thereof, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, shall be deemed to be the order of the commission.

Sec. 6. The commission shall keep and maintain its office at the seat of government, and shall provide a suitable room or rooms, necessary office furniture, supplies, books, periodicals, maps and other equipment. After due notice showing the time and place, the commission may hold hearings anywhere within the state.

Sec. 7. The commission may employ a secretary, actuary, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants, and fix their compensation, which shall be paid out of the state treasury. The members of the commission, actuaries, accountants, inspectors, examiners, experts, clerks, stenographers and other assistants that may be employed shall be entitled to receive from the state treasury their actual and necessary expenses while traveling on the business of the commission. Such expenses shall be itemized and sworn to by the person who incurred the expense, and allowed by the commission.

Sec. 8. The commission shall adopt reasonable and proper rules to govern its procedure, regulate and provide for the kind and character of notices, and the service thereof, in cases of accident and injury to employes, the nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the rights to benefits or compensation from the fund hereinafter provided for, the forms of application of those claiming to be entitled to benefits or compensation therefrom, the method of making investigations, physical examinations and inspections, and prescribe the time within which adjudications and awards shall be made.

Sec. 9. All persons, firms and corporations regularly employing other persons for profit, or for the purpose of carrying on any form of industry in the state of West Virginia, are employers within the meaning of this act, and are subject to its provisions. All persons in the service of employers, as herein defined, and employed by them for the purpose of carrying on the industries in which they are engaged (persons casually employed excepted) are employes within the meaning of this act, and subject to the provisions thereof; *provided*, that this act shall not apply to employers of employes in domestic or agricultural service, to employes of any employer who are employed wholly without the state, nor shall a member of a firm

of employers, or any officer of a corporation employer, including managers, superintendents and assistant managers and assistant superintendents be deemed an employe within the meaning of this act.

Sec. 10. Every employer shall furnish the commission, upon request, all information required by it to carry out the purposes of this act. The commission or any member thereof, or any person employed by the commission for that purpose, shall have the right to examine under oath any employer or officer, agent or employe thereof.

Sec. 11. Within thirty days from the organization of the commission, every employer subject to this act shall notify the commission of such fact. The commission shall prepare blank reports for the use of, and furnish the same to employers subject to this act, and every employer receiving from the commission any blank or blanks with direction for filling out and returning the same, shall return the same filled out so as to answer fully and correctly all pertinent questions therein propounded and if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commission within the period fixed by the commission for such return.

Sec. 12. Each member of the board, the secretary and every inspector or examiner appointed by the board shall, for the purposes contemplated by this act, have power to administer oaths, certify to official acts, take depositions, issue subpoenas and compel the attendance of witnesses and the production of pertinent books, accounts, papers, records, documents and testimony.

Sec 13. In case of failure, or refusal of any person to comply with the order of the commission, or subpoena issued by it or one of its inspectors, or examiners, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, or refuse to permit an inspection as aforesaid, the circuit judge of the county in which the person resides, on application of any member of the commission, or any inspector or examiner appointed by it, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court on a refusal to testify therein.

Sec. 14. Each officer who serves such subpoena shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the commission or an inspector or an examiner,

shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the circuit court, which shall be audited and paid from the state treasury in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers approved by any two members of the commission. No witness subpoenaed at the instance of a party other than the commission, or an inspector, shall be entitled to compensation from the state treasury unless the commission shall certify that his testimony was material to the matter investigated.

Sec. 15. In an investigation, the commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions as provided for transcripts in the circuit court.

Sec. 16. A transcribed copy of the evidence and proceedings, or any specific part thereof, on any investigation, taken by a stenographer appointed by the commission, being certified and sworn to by such stenographer to be a true and correct transcript of the testimony in the investigation, or of a particular witness, or of a specific part thereof, or to be a correct transcript of the proceedings had on such investigation so purporting to be taken and subscribed, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts certified. A copy of such transcript shall be furnished on demand to any party upon payment of the fee therefor, as provided for transcripts in the circuit court.

Sec. 17. The commission shall prepare and furnish free of cost blank forms, and provide in its rules for their distribution so that the same may be readily available, of applications for benefits for compensation from the workmen's compensation fund, notices to employers, proofs of injury or death, of medical attendance, of employment and wage earnings, and such other blanks as may be deemed proper and advisable, and it shall be the duty of employers to constantly keep on hand a sufficient supply of such blanks.

Sec. 18. For the purposes of this act the following classification of the industries subject thereto is adopted:

(1) Coal mines, including their tipples, power, light, heating and ventilating plants, tramways, private tracks and sidings, and accessory and auxiliary plants working in or with by-products.

(2) Paint manufactories, oil refineries, oil and gas wells, including their pipe lines, storage, power or light plants, tramways, private

tracks and sidings, and accessory and auxiliary plants working in or with by-products.

(3) Iron and steel mills, including blast furnaces, smelters, tube works, rolling mills, and their accessory and auxiliary plants, working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(4) Sheet and tin plate mills, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(5) Foundries, machine shops, fire-arms factories, tool factories, car building and repairing, structural iron works, and working in or with iron or steel, not otherwise specified, where power driven machinery is used, together with their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(6) Stamped metal works, can factories, enamel iron works, and working in or with sheet iron or tin plate, not otherwise specified, where power driven machinery is used, together with their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(7) Logging, logging railroads and tramways, saw mills, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(8) Planing mills, wood pulp, cordage and paper mills, box factories, cooperage plants, furniture factories, woodenware or wood fibre ware manufactories, vehicle works of every kind, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(9) Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, lamps, glass light fixture parts, lamps, window and plate glass, potteries of all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china and crockeryware using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating light or heat, and tramways, private tracks and sidings.

(9-a) Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, lamps, glass light fixture parts,

lamps, window and plate glass, potteries of all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china and crockeryware not using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

(10) Printing plants of all kinds, electrotyping, photo engraving, engraving, lithographing, embossing, book binding, and accessory and auxiliary lines of work and manufacture.

(11) Woolen mills, knitting mills, cotton mills, carpet and rug mills, clothing manufactories of every kind and working in or with textiles not otherwise specified.

(12) Breweries, bottling works, canneries of fruits, vegetables, oils, fish, milk or meat, manufactories of preserves, jellies, ketchup, sauces, relishes, pickles, flour and feed mills, bakeries, confectioneries, drug and extract manufactories, tobacco, cigar, stogie and cigarette manufactories, in which power driven machinery is used.

(13) Slaughter and packing houses, stock yards, soap, tallow, lard and grease manufactories, tanneries, artificial ice, and refrigerating and cold storage plants, creameries, and carbon black factories, in which power driven machinery is used.

(14) Steam laundries, dyeing and cleaning plants, stamping, embossing and working with leather, shoe and harness manufactories, mattress and bedding factories, upholstering factories, manufacturers of rubber goods, and auxiliary and accessory lines of work and manufacture not otherwise specified.

(15) Steam and other railroads and transportation systems not otherwise specified.

(16) Street and interurban railways, whether propelled by electricity or other power.

(17) Telegraph and telephone plants and systems, electric light and power plants and systems, steam heat and power plants and systems, water works systems, gas works and systems, grain elevators, and all lighting, heating or power systems not otherwise specified.

(18) Quarries, stone crushers, gravel pits, mines, other than coal mines, and working with asphalt, cement, stone or other building material not otherwise specified, power propelled ferries, sand diggers and other water craft.

(19) Such works, occupations and manufactories specified in the foregoing eighteen classifications as are operated without power driven machinery.

(20) Match factories, powder mills, fire-works factories, and works in which articles of an explosive nature are mixed or manufactured.

(21) Construction of tunnels, shafts, bridges, trestles, steeples, towers, grain elevators, tanks, water towers, wind mills, subaqueous works, iron or steel frame structures, or parts of structures, blast furnaces, smoke stacks, cupolas or chimneys more than fifty feet high, water works and systems, electric lights and power plants and systems, gas works and systems, installation of steam boilers, engines and dynamos, steam railroads, logging railroads, street railways and systems, boat building with scaffolds, floating docks, engineering works, structural work on buildings over three stories in height, not otherwise specified, and drilling of wells.

(22) Construction and installation of sewers, fire escapes, freight or passenger elevators, advertising signs, ornamental metal work on or in buildings, metal ceilings, plate or window glass, electrical wiring, stairways, buildings which require galvanized iron or tin work, marble stone or brick work, roof work, slate work, plumbing work, carpenter work, electric work, installing automatic sprinklers, electric or fire alarm systems, heating or ventilating systems, or machinery not otherwise specified, covering steam pipes and boilers, road and street making, street or other grading, and structural work not otherwise specified.

(23) Such works or occupations not specified in the foregoing classifications in connection with which employer and employes shall voluntarily apply to the commission for the benefit and protection of this act.

And it shall be the duty of the commission to classify and place in one of the classes aforesaid any industries subject to this act not hereinbefore specifically mentioned. And the commission shall have the power on or before the first day of January of each year to re-classify the industries subject to this act or to create additional classifications with respect to their respective degrees of hazard and determine the risk of the different classes and fix the rates of premium for each class, according to the risks of the same, sufficiently large to provide an adequate fund for the compensation provided for in this act, and to create a surplus sufficiently large to guarantee a workmen's compensation fund from year to year. The classification so determined and the rates of premium established shall be applicable for such year; *provided*, that the rate so fixed shall not exceed the maximum of one dollar on each one hundred dollars of the gross an-

nual pay roll of each employer in any class; *provided, also*, that for the purpose of this act the pay of any employe employed partly within and partly without this state shall be deemed to be such proportion of the total pay of such employe as his service within this state bears to his service outside the same. A mine worker shall be deemed to be wholly employed in the state in which the tippie or principal mine entrance of the mine in or about which he works is situate.

The state shall pay the salaries of the members and employes of the commission, and other expenses of the administration of the workmen's compensation fund upon order or voucher approved and signed by the chairman and secretary of the commission, directed to the auditor of the state, who shall draw his warrant therefor.

Sec. 19. The commission shall establish a workmen's compensation fund from premiums paid thereto by employers and employes as herein provided, for the benefit of employes of employers that have paid the premiums applicable to the classes to which they belong and for the benefit of the dependents of such employes, and shall adopt rules and regulations with respect to the collection, maintenance and disbursement of said fund, not in conflict with the provisions of this act.

Sec. 20. The treasurer of the state shall be the custodian of the workmen's compensation fund, and all disbursements therefrom shall be paid by him upon order or voucher, approved and signed by the chairman and secretary of the commission, and directed to the auditor of the state, who shall draw his warrant therefor.

Sec. 21. The treasurer of the state shall give a separate and additional bond, in such amount as may be fixed by the governor, and with sureties to be approved by him, conditioned for the faithful performance of his duties as custodian of the workmen's compensation fund herein provided for.

Sec. 22. Any employer subject to this act who shall elect to pay into the workmen's compensation fund the premiums provided by this act, shall not be liable to respond in damages at common law or by statute for the injury or death of any employe, however occurring, after such election and during any period in which such employer shall not be in default in the payment of such premiums; *provided*, the injured employe has remained in his service with notice that his employer has elected to pay into the workmen's compensation fund the premiums provided by this act. The continuation in the service of such employer with such notice shall be deemed a waiver by the employe of his right of action as aforesaid.

Sec. 23. Each employer electing to pay the premiums provided by this act into the workmen's compensation fund shall post in conspicuous places about his place or places of business typewritten or printed notices stating the fact that he has made such election. and the same when so posted shall constitute sufficient notice to all his employes of the fact that he has made such election.

No employer or employe shall exempt himself from the burden or waive the benefits of this act by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be *pro tanto* void.

Sec. 24. The application of this act as between employers and employes shall date from and include the first day of October, one thousand nine hundred and thirteen; and for the purpose of creating such workmen's compensation fund each employer subject to this act shall pay into the state treasury the premiums of liability based upon and being such a percentage of the pay roll of such employer as may have been determined and published by the commission and be then in effect. The premiums provided for in this act shall be paid by the employers to the treasurer of the state, and be contributed in the proportion of ninety per cent by the employers and ten per cent by the employes. The premiums shall be paid monthly on or before the twenty-fifth day of each month for the preceding month, and shall be the prescribed percentage of the total wages paid to all employes subject to the act for such preceding month. Each employer is authorized to deduct from the pay of his employes (excepting persons causally employed), for any month, ten per cent of the premium paid or to be paid for such month in proportion to the pay received by them respectively for such month, the proper percentage to be deducted from each installment of pay, whether paid monthly or more frequently, the minimum deduction from the earnings of each employe for any month or part thereof for which settlement is made to be five cents. Each employer shall give a receipt or statement to each employe showing the amount which has been deducted for the workmen's compensation fund, and shall file with the commission, on making his next payment to the fund, a sworn statement showing what per cent of said premium herein provided to be paid by the employes (disregarding fractions of a cent) had been deducted, and that no more than ten per cent (subject to the minimum requirement aforesaid) had been so deducted. The state treasurer shall issue his receipt for any sums paid him hereunder, in duplicate, the original to be delivered to the person, firm or corpora-

tion paying the same and the duplicate to be filed with the commission. *Provided*, that in order to create a fund available upon the application of this act as aforesaid, on October first, one thousand nine hundred and thirteen, the payment for the months of October to December, one thousand nine hundred and thirteen, inclusive, shall be made on or before October first, one thousand nine hundred and thirteen, and be preliminarily based upon the pay roll of the operations of the first four months of the year one thousand nine hundred and thirteen. If any employer be found to have overpaid for such three months he may deduct such overpayment from the first monthly payments made to the fund; if any employer be found to have underpaid for such three months he shall pay the deficiency with the first monthly payment made by him after the end of said three months.

Sec. 25. The commission shall disburse the workmen's compensation fund to such employes (within the meaning of this act) of employers as have paid into said fund the premiums for the month in which the injury occurs applicable to the classes to which they belong, as shall have received injuries in this state in the course of and resulting from their employment, or to the dependents, if any, of such employes in case death has ensued, according to the provisions hereinafter made.

Sec. 26. All employers subject to this act who shall not have elected to pay into the workmen's compensation fund the premiums provided by this act, or having so elected, shall be in default in the payment of same, shall be liable to their employes (within the meaning of this act) for damages suffered by reason of personal injuries sustained in the course of employment caused by the wrongful act, neglect or default of the employer, or any of the employer's officers, agents or employes, and also to the personal representatives of such employes where death results from such injuries, and in any action by any such employe or personal representative thereof such defendant shall not avail himself of the following common law defenses:

The defense of the fellow-servant rule; the defense of the assumption of risk; or the defense of contributory negligence; and further shall not avail himself of any defense that the negligence in question was that of some one whose duties are prescribed by statute.

Sec. 27. The commission shall disburse and pay from the fund for such injury to such employes as may be entitled thereto hereunder such amounts for medical, nurse and hospital services and medicines

as it may deem proper, not, however, in any case to exceed the sum of one hundred and fifty dollars in addition to such award to such employes, payment to be made to the employe, or to the persons who may have furnished the service and supplies, or to the persons who may have advanced payment for same, as the commission shall deem proper; *provided*, that in case any injured employe be entitled, under contract connected with his employment or otherwise, to hospital or medical service without further charge to him, no payment shall be made out of the workmen's compensation fund for hospital or medical service.

Sec. 28. Notwithstanding anything hereinbefore or hereinafter contained, no employe or dependent of any employe shall be entitled to receive any sum from the workmen's compensation fund on account of any injury to or death of an employe caused by a self-inflicted injury, the willful misconduct or the intoxication of such employe. If injury or death result to an employe from the deliberate intention of his employer to produce such injury or death, the employe, the widow, widower, child or dependent of the employe shall have the privilege to take under this act, and also have cause of action against the employer as if this act had not been enacted, for any excess of damages over the amount received or receivable under this act.

Sec. 29. In case death ensues from the injury, reasonable funeral expenses, not to exceed seventy-five dollars, shall be paid from the fund to the personal representative of the employe, or to such other person as shall have advanced the same, in addition to such award to the employe's dependents.

Sec. 30. No benefit shall be allowed for one week after the injury is received, except the disbursement provided for in sections twenty-seven and twenty-nine.

Sec. 31. In case of temporary or partial disability, the employe shall receive during the continuance thereof fifty per cent of the impairment of his earning capacity, not to exceed a maximum of eight dollars per week, nor to be less than a minimum of four dollars per week, for not to exceed a period of twenty-six weeks; *provided*, that if such partial disability consist of the loss of an arm or leg at or above the wrist in one case or the ankle in the other, or the loss of an eye, the period for which compensation shall be paid may be, but shall not exceed, one hundred and fifty-six weeks.

Sec. 32. In case of permanent total disability the award shall be fifty per cent of the average weekly wage, and shall continue until the death of such person so totally disabled, but not to exceed a max-

imum of six dollars per week nor to be less than a minimum of three dollars per week.

Sec. 33. In case the injury causes death within the period of ninety days, the benefits shall be in the amounts and to the persons following:

(1) If there be no parent or dependents, the disbursement from the workmen's compensation fund shall be limited to the expense provided for in sections twenty-seven and twenty-nine.

(2) If the deceased employe be under the age of twenty-one and unmarried and leave a dependent father or mother, the father, or if there be no father, the mother shall be entitled to a payment of fifty per cent of the average weekly wage, not exceeding six dollars per week, to continue until the employe would have been twenty-one years of age.

(3) Dependent, as used in this act, means a widow, invalid widower, child under the age at which he or she may be lawfully employed in any industry, invalid child over such age, father, mother, grandfather or grandmother, who at the time of the injury causing death is dependent in whole or in part for his or her support upon the earnings of the employe.

(4) If the deceased employe leave a widow or invalid widow, the payment shall be twenty dollars per month until the death or remarriage of such widow or widower; and in addition five dollars per month for each child under the age at which he or she may be lawfully employed in any industry, to be paid until such child reaches such age; *provided*, that the total payment shall not exceed thirty-five dollars per month.

(5) If the deceased employe be an adult and there be no widow, widower or child under the age at which he or she may be lawfully employed in any industry, but there are wholly dependent persons at the time of death, the payment shall (except in the case named in clause two of this section) be fifty per cent of the average monthly support actually received from the employe during the preceding twelve months, and to continue for the remainder of the period between the date of death and six years after the date of injury, and not to amount to more than a maximum of twenty dollars per month.

(6) If there be no widow, widower, or child under the age at which he or she may be lawfully employed in any industry, or dependent persons, but there are partly dependent persons at the time

of death, the payment shall be fifty per cent of the average monthly support actually received from the employe during the preceding twelve months, and to continue for such portion of the period of six years after the date of injury as the commission in case may determine, and not to amount to more than a maximum of twenty dollars per month.

Sec. 34. The benefits, in case of death, shall be paid to such one or more dependents of the decedent, or to such other person, for the benefit of all of the dependents, as may be determined by the commission which may apportion the benefits among the dependents in such manner as it may deem just and equitable. Payment to a dependent subsequent in right may be made if the commission deem proper, and shall operate to discharge all other claims therefor.

Sec. 35. The dependent or person to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof according to their respective claims upon the decedent for support, in compliance with the finding and direction of the commission.

Sec. 36. Notwithstanding anything herein contained, no sum shall be paid to a widow or widower who shall have been living separate and apart from, or have been abandoned by the employe for twelve months next preceding the injury, and who shall not have been supported by him or her during such time. But in the event a chancery suit or other action be pending concerning the relations of said widow, or widower to said employe, then payment shall be made subject to the final adjudication of said suit or action.

Sec. 37. The average weekly wage or earnings of the injured person at the time of injury shall be taken as the basis upon which to compute the benefits. The time of injury within the meaning of this act shall be such reasonable time prior to the injury as shall enable the commission to make a fair award, taking into consideration both the rate of wage or earning of such person prior to his entering the service in which he was injured.

Sec. 38. Payments may be made in such periodical installments as may seem best to the commission in each case. Notwithstanding anything herein contained, the commission may direct the repayment of and pay out of any installment any advances for necessaries that may have been made by any person pending the payment of such installment.

Sec. 39. To entitle any employe or dependent of a deceased employe to compensation under this act the application therefor must

be made in due form within six months from and after the date of injury or death, as the case may be. No person shall be excluded as a dependent by reason of being a non-resident alien, and non-resident aliens may be officially represented by the consular officers of the country of which such aliens may be citizens or subjects.

Sec. 40. The power and jurisdiction of the commission over each case shall be continuing, and it may from time to time make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion, may be justified.

Sec. 41. The commission, under special circumstances, and when the same is deemed advisable, may commute periodical benefits to one or more lump sum payments.

Sec. 42. Benefits before payment shall be exempt from all claims of creditors and from any attachment or execution and shall be paid only to or for the use of such employes or their dependents as herebefore provided.

Sec. 43. The commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its decision thereon shall be final. *Provided, however,* in case the final action of said commission denies the right of the claimant to participate at all in such fund, on the ground that the injury was self-inflicted, or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the claimant's right, then the claimant may, within sixty days after notice of the final action of such commission, apply for an appeal to the supreme court of appeals. The appellant shall file a petition before said supreme court of appeals against such commission as defendant, within said period of sixty days, and the commission shall be notified by the clerk of said court, forthwith, of the filing of such petition for appeal. And the commission shall, within ten days after the receipt of such proceedings before the commission, including the receipt of such notice, file with the clerk of said court the record of such proceedings before the commission, including a transcript of the evidence. The court, or any judge thereof, may thereupon decide whether an appeal shall be granted or not. If granted, the commission and the claimant or the claimant's attorney shall be notified of the fact by mail. If an appeal is granted the case shall be tried by said court in the same manner as other cases before it, save and except that neither the record nor briefs need be printed, and that every such appeal granted prior to thirty days before the beginning of any

term shall be on the docket for such term, and such appeals shall have precedence over other cases on such docket. The attorney general, without extra compensation, or other counsel, if the commission see fit to employ the same, shall represent the commission on such appeal. The supreme court, on such appeal, shall determine the right of the claimant and certify its decision to the commission, and, if it determines the right in his favor, the commission shall fix his compensation within the limits and under the rules prescribed in this act. The costs of such proceedings, including a reasonable attorney's fee, not exceeding one hundred dollars, to the claimant's attorney, to be fixed by the court, shall be taxed against the unsuccessful party. No fees, expenses or costs shall be paid out of any compensation awarded.

Sec. 44. Such commission shall not be bound by the usual common law or statutory rules of evidence, or by any technical or formal rules of procedure, other than herein provided, but may make the investigation in such manner as in its judgment is best calculated to ascertain the substantial rights of the parties and to carry out justly and liberally the spirit of this act.

Sec. 45. The commission may make necessary expenditures to obtain statistical and other information to establish the classes provided for in section eighteen.

Sec. 46. Annually on or about the fifteenth day of September in each year, such commission, under the oath of at least two of its members, shall make a report as of the thirtieth day of June, to the governor, which shall include a statement of the number of awards made by it, and a general statement of the causes of the accidents leading to the injuries for which the awards were made; a detailed statement of all disbursements, and the condition of its fund, together with any other matters which such commission deems it proper to call to the attention of the governor, including any recommendations it may have to make, and the commission whenever required by the governor shall report to him as to any designated subject or matter, and furnish such information as may be required.

Sec. 47. The commission may sue in the circuit court of Kanawha county in its own name for any premiums owing from any employer for any part of the period intervening between notice given by such employer as hereinbefore provided of his election to pay into the fund the premiums provided by this act, and notice similarly given of the election of such employer to discontinue the payment of

such premium, and such employer shall be liable in any action so brought for such premium and interest thereon with costs.

Sec. 48. The auditor shall issue his warrant for any disbursement hereunder only when approved in writing by the chairman or acting chairman and secretary of the commission, and the chairman or acting chairman and secretary shall not issue any such approval unless authorized by the commission by an order entered of record. Whenever it shall appear that the chairman will be absent or unable to act at sessions of the commission for one week or more, another member of the commission may be designated by the commission as acting chairman during the absence or inability to act of the chairman, and during such period shall have all the duties and powers of the chairman.

Sec. 49. Any person, firm or corporation, knowingly failing to make any report or perform any duty required by the commission within the time specified, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than twenty-five hundred dollars. Any person, or firm, or the officer of any corporation, who knowingly makes a false report or statement under oath, or affidavit respecting any information required by the commission, or who shall knowingly testify falsely in any proceeding before the commission, shall be deemed guilty of perjury and upon conviction thereof shall be punished as provided by law.

Sec. 50. Any person who shall knowingly secure or attempt to secure larger compensation, or compensation for a longer term than he is entitled to, from said workmen's compensation fund, or knowingly secure or attempt to secure compensation from said fund when he is not entitled to any, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars or imprisoned not exceeding twelve months, or both, in the discretion of the court, and shall, from and after such conviction, cease to receive any compensation from such fund.

Sec. 51. Whenever and as often as there shall be in the hands of the treasurer any sum belonging to the workmen's compensation fund not likely, in the opinion of the commission, to be required for immediate use, it shall be the duty of the board of public works, when called upon by the commission, to loan such sum or to invest the same in interest bearing securities, and when and as it may become necessary or expedient to use the moneys so loaned or invested the board of public works shall, when called upon by the commission,

collect or sell or otherwise realize upon any such loan or investment, and any interest accruing upon any such loan or investment, as well as any interest received upon the deposit of moneys belonging to said fund, shall be credited to said fund.

Sec. 52. The provisions of this act shall apply to employers and employes engaged in intrastate and also in interstate or foreign commerce for whom a rule of liability or method of compensation has been or may be established by the congress of the United States only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that any such employer and any of his employes working only in this state may with the approval of the commission, and so far as not forbidden by any act of congress, voluntarily accept the provisions of this act by filing written acceptances with the commission, and such acceptances, when filed with and approved by the commission, shall subject the acceptors irrevocably to the provisions of the act to all intents and purposes as if they had been originally included in its terms. Payments of premium shall be on the basis of the pay roll of the employes who accept as aforesaid.

Sec. 53. If any employer shall be adjudicated to be outside the lawful scope of this act, the act shall not apply to him or his employe; or if any employe shall be adjudicated to be outside the lawful scope of this act, because of remoteness of his work from the hazard of his employer's work, any such adjudication shall not impair the validity of this act in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions of this act for the creation of the fund, or the provisions of this act making the compensation to the employe provided in it exclusive of any other remedy on the part of the employe shall be held invalid, the entire act shall be thereby invalidated and an accounting according to the justice of the case shall be had of money received. In other respects an adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or any part thereof.

Sec. 54. If deemed best by it the commission may insure in any liability insurance company, or companies, authorized to do business in West Virginia, all or any part or class of, or one or more individual risks of, the liabilities of the workmen's compensation fund for any year or series of years, and apply so much as may be necessary of the

premiums collected for such year or years toward the payment of the premiums for such insurance.

Sec. 55. If the provisions of this act relating to compensation for injuries to, or death of workmen shall be repealed or adjudged invalid or unconstitutional, the period intervening between the occurrence of any injury or death and such appeal, or the final adjudication of invalidity or unconstitutionality, shall not be computed as a part of the time limited by law for the commencement of any action relating to such injuries or death, but the amount of any compensation which may have been paid on account of such injury or death, shall be deducted from any judgment for damages recovered on account of such injury or death.

Sec. 56. All acts and parts of acts in conflict with this act are hereby repealed.

(Substitute for House Bill No. 195.)

CHAPTER 11.

AN ACT to further grant, define and regulate the rights, duties, powers and privileges of hydro-electric and other companies producing electric or other energy or power, and to that end to authorize such companies to exercise the right of eminent domain; to have the powers and duties of public utility corporations; to fix the license tax on gross income of such companies; to provide for the regulation of such companies by the board of control or other body authorized by law so to do; and to give to municipal corporations right to take water for use of such municipality and to condemn rights-of-way therefor.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 26, 1913.)

- | | |
|--|---|
| <p>Sec.</p> <ol style="list-style-type: none"> 1. What water streams are under control and supervision of state 2. Rights and powers of corporations to acquire and condemn lands, etc. 3. Have right to condemn and acquire mills, etc. 4. May acquire by condemnation ferries, etc. 5. May acquire by condemnation private roads, etc. 6. Have the right to flood cemeteries; condemnation of lands, both public and private; shall remove all bodies before. | <p>Sec.</p> <ol style="list-style-type: none"> 7. May acquire rights-of-way. 8. Right to erect and operate wires, poles, etc., across public roads. 9. May acquire rights-of-way not to exceed in width. 10. May condemn land owned by churches. 11. Condemn, raise or change pipe line. 12. May remove timber outside of right-of-way. 13. Dam considered authorized. 14. Powers of public utility corporations. 15. How condemnation procedure had. |
|--|---|

- | | |
|--|--|
| <p>SEC.
16. The approval of the board of public works must be had before powers can be exercised; board shall employ expert engineers; power and duty of board; duty of corporation; license tax.</p> <p>17. Power and duty of board of public works.</p> <p>18. License tax to be paid annually; statement to be filed with state tax commissioner; right of appeal.</p> <p>19. Shall furnish product without discrimination; board of public works may vacate any rule.</p> <p>20. No interference with jurisdiction of United States as to streams.</p> | <p>SEC.
21. A lien to secure payment of license tax.</p> <p>22. Shall not provide passage for fish.</p> <p>23. To hold part of this act unconstitutional does not affect remainder.</p> <p>24. Duties of board of public works, vested in public service commission.</p> <p>25. Right of appeal to person believing himself injured.</p> <p>26. Charter or franchise shall be renewable, when.</p> <p>27. Rights of corporation subject to right of any municipality, when.</p> <p>28. Inconsistent acts repealed.</p> |
|--|--|

Be it enacted by the Legislature of West Virginia:

Sec. 1. All water streams within the state capable of developing electrical or other energy or power shall be under the control and supervision of the state; *provided, however,* nothing contained in this section shall deprive any riparian owner of any right or interfere with his exercise of the same.

Sec. 2. That all corporations hereafter organized or heretofore organized under the general laws of this state, and all corporations organized under the laws of any other state of the United States, and which have complied or may comply with the laws of this state, and which by their charter have the right to manufacture, supply and sell to the public, electrical or other energy or power, produced by water as a motive force, shall in addition to the other powers conferred by law have the following rights, powers and authority:

To acquire by condemnation the lands and rights necessary for the construction and operation of dams across any of the streams of this state, and works connected therewith or useful thereto, either up or down stream therefrom, and to construct and operate at the site thereof or other points, up or down stream therefrom, and across said stream, dams, together with all works incident, necessary or related thereto and in connection therewith: to condemn lands or easements therein for the purpose of impounding the waters of any water course or water courses of the state, or divert the same without injury to the rights of others, and to raise higher such dams, and to enlarge the works necessary, related or incident thereto, and to construct other works necessary, incident or related thereto, either up or down stream therefrom, as may be required or deemed expedient by such corporation in the manufacture and supply of electrical or other energy or power produced by water as a motive force.

To acquire by condemnation all lands or water or interests or

rights or easements in lands or waters likely or liable to be flooded or damaged by impounding or diverting the water of any water course in this state or its tributaries, or necessary for the construction or operation of dams or power houses or works necessary, incident or related thereto, or likely or liable to be flooded or damaged by the construction or operation or enlargement of the dams or works incident, necessary or related thereto, or damaged or taken in the construction or operation or use of canals, tail-races or exit-ways, necessary, useful or convenient for the escape, conveyance or return of the water used in the operation of the works or power plant; but nothing herein shall be construed to prevent free access to and from the water so impounded by any riparian owner.

To acquire by condemnation the necessary land for sub-stations and transmission lines, and shall have no right to condemn a private residence, nor any out house, garden or orchard within the curtilage of a private residence for a sub-station site or for the right-of-way for its transmission lines, but this shall not restrict the right of such company to condemn for its dams and power stations the lands liable to be flooded thereby, any dwelling house, orchard, ferry, water-mill, mill-dam, mill-race, school house, public or private cemetery, county road or any other structure within said flooded area.

In all cases just compensation shall be paid to the owner in the manner provided by law for all property taken or damaged.

Sec. 3. Such corporations shall have the right and authority to condemn and acquire thereby any water-mill, steam-mill, mill-dam, mill-race, franchises, rights and powers, privileges and appurtenances thereunto belonging, within the area of the lands and water courses liable to be flooded by its dams, but nothing contained in this section shall authorize such corporations to condemn any plant which has been constructed and is in actual operation, producing electrical energy or power by water as a motive force at the time this act takes effect.

Sec. 4. Such corporations shall have the right and authority to acquire by condemnation the right to flood public and private ferries and the approaches thereto, but said corporations in the event of acquiring said property by condemnation shall re-locate and place public ferries and the approaches thereto in a condition satisfactory to the county court of the county in which said public ferries are located, and to the court of said county or counties trying such condemnation proceedings.

Sec. 5. Such corporations shall have the right and authority to

acquire by condemnation the right to flood private roads, and shall have the right to flood public roads by first paying to the county court of the county in which the public roads are located the cost of locating and laying out and opening up other public roads in lieu thereof, satisfactory to the county court.

Sec. 6. Such corporations shall have the right to flood cemeteries, and by condemnation acquire the lands embraced therein, both as to public and private, and shall have the right to acquire by condemnation additional lands for the purpose of removing the bodies and monuments or other structures from either public or private cemeteries to such lands so acquired, and all the rights of the state of West Virginia in and to lands in such cemeteries to be flooded shall by this act be held to pass to and vest in such corporations, and the lands acquired for the removal of said cemeteries, shall thereupon vest in the state of West Virginia, and in such condemnation proceedings to acquire said cemeteries, if private, notice shall be served on the owners, if known, and if not known, notice shall be given by publication for four successive weeks as now provided by law; and abutting land owners shall also have notice of such proceedings, and may appear therein, and if public, against the cemetery association alone.

Before such corporations shall flood such cemeteries they shall remove the bodies and monuments or other structures to the lands newly acquired for such purposes, and re-inter bodies and re-set monuments under the direction and to the satisfaction of the court. The additional lands to be acquired under this section for cemetery purposes, if not agreed upon between the parties in interest as to the location, area and condition of the same shall be determined by the court in whose jurisdiction the condemnation proceedings to acquire the same have been or may be instituted.

Sec. 7. Such corporations shall have the right and authority to acquire by condemnation, easements, ways and rights-of-way, not exceeding a width of one hundred feet for the total length of such right-of-way, upon which to erect towers, poles or wire lines for the transmission, supply and sale of electrical or other energy or power produced by water as a motive force, or by steam power or otherwise; *provided*, such corporations shall have no right without consent to construct and operate towers, poles and wire lines upon the right-of-way of any steam or electrical railway, pipe line, telephone or telegraph company except to cross the same, and such corporations shall have the right to procure a right-of-way for crossing over any

railroad, pipe line, telephone or telegraph or other power company as provided in section eleven of chapter fifty-two of the code of West Virginia.

Sec. 8. Such corporations shall have the right and authority to erect and operate wires, poles and wire lines across public roads, subject to the reasonable regulations of the county court of the county in which said roads are located; but the court shall in all cases provide for the safety and convenience of the public.

Sec. 9. Such corporations shall have the right and authority to acquire by condemnation ways and rights-of-way not exceeding a width of one hundred feet for the purpose of constructing earth, steam and electric roads for the transportation of material, equipment and supplies required or useful in the construction, operation and maintenance of the said dams and works incidental and necessary thereto.

Sec. 10. Such corporations shall have the right and authority to condemn the lands owned by churches and their trustees, and public and private school house sites, when within the area liable or likely to be flooded, or necessary for its dam and stations.

Sec. 11. Such corporation is hereby authorized to condemn the right to flood, raise or change the location of any pipe line within the area liable or likely to be flooded or necessary for its dams; *provided*, that in so doing the use of such pipe lines shall not be destroyed, and such corporations shall have the right to condemn the lands necessary for raising or changing the location of such pipe line.

Sec. 12. Such corporation shall have the right and authority to remove outside of said rights-of-way such timber as may injure or endanger by shading, falling or otherwise any of its works or transmission lines, when it shall have acquired the right to do so, and for that purpose may acquire such timber by condemnation.

Sec. 13. Any dam erected in accordance with the provisions of this statute shall be considered a dam authorized by the legislature of this state at the particular site upon which the same is located.

Sec. 14. Such corporations shall be public utility corporations and shall have and exercise all the rights, powers and privileges now or hereafter conferred upon public utility corporations.

Sec. 15. The procedure for condemnation under this act shall be in the manner provided for the condemnation of lands and rights-of-way for public uses by chapter forty-two of the code of West Virginia or as may be conferred by any other statute giving the power of eminent domain to any public service corporation.

Sec. 16. Before such corporations shall exercise any of the powers

herein authorized, including the right to condemn property, or any right of eminent domain, they shall make application to and have the approval of the board of public works, setting forth in detail the location of the proposed dam, or other method of impounding water, the area and character of land that will be flooded by the impounded water, the amount of water in gallons that will be impounded, the character of the proposed dam and the horse power that will be developed thereby. With such application shall be filed general plans and drawings of the proposed dam, and a statement of the character of materials to be used therein. Detailed plans, specifications and drawings shall be filed with and approved by the board of public works before the work covered thereby shall be commenced.

The board of public works shall have power to employ expert engineers to examine and report upon such location, plans, drawings and specifications.

The board shall require or may authorize any changes in the location, plans, drawings and specifications of any proposed dam as may be necessary for the protection of life and property or otherwise, and may refuse the application if in its judgment the same should not be granted. When the location and general plans and drawings of any proposed dam are approved by the board of public works, it shall then grant a permit for the appropriation, and the corporation shall then have the right to purchase property or condemn the same for the purposes herein set out. But no court shall enter any order giving any corporation the right to condemn property under this act, unless the petition affirmatively avers, and the averment supported by competent proof, that the board of public works has approved the location and general plans and drawings of the proposed dam. Before making application to the board of public works, as in this section provided, such corporation proposing to make such application, shall give four weeks notice thereof, by publishing once in each week in some newspaper of general circulation published in the county wherein the proposed dam is to be located, if one be published therein, if not, by publishing in some newspaper nearest to the location of such dam and by written or printed notice posted at least four weeks prior to making such application at fifty places within the area likely to be flooded by the water to be raised by such dam. The board of public works shall hear and consider any remonstrances against the proposed undertaking. Such corporation shall pay to the auditor, to be credited to the state fund, a license tax equal to one-twelfth of one per cent for each remaining month of the fiscal year.

on its authorized capital, but which license tax shall in no event be less than at the rate of five hundred dollars, nor more than at the rate of five thousand dollars per annum. Such corporation which heretofore adopted in good faith, or which shall hereafter in good faith adopt the location of its dam or dams, power plants and probable contour lines of the water proposed to be impounded, shall have the prior right to condemn the property necessary for such dam or dams, power plants and the land within such contour lines as against any other corporation having the right of eminent domain which has not made a prior location, and the adoption thereof on such property for a public use, and has not proceeded with due diligence and in good faith to construct its works thereon; but such priority of right to condemn shall not continue for a longer term than five years from and after the date of approval by the board of public works of such location and general plans and drawings.

Any such corporation incorporated for any of the purposes mentioned in section two of this act, and which shall have in good faith located a dam for its purposes, together with the probable contour lines of the water proposed to be impounded thereby, and which shall have actually expended as much as fifty thousand dollars in the construction of said dam, shall have all the powers as to such dam and to the land and property within such contour lines conferred by this act without filing the application and obtaining the permit provided for in this section; and such corporation shall not be liable to any other penalty provided by this act for failure to make such application and obtain such permit before proceeding with the construction of such dam; but such corporation shall, within sixty days after the time this act takes effect, file with said board the plans and drawings above mentioned, and the board may require or authorize any change in such plans, drawings and specifications of such dam as shall be necessary for the protection of life and property, or otherwise, as hereinbefore provided. And said board shall have the same power as to the further construction of said dam as if it were one for which an application and permit were required under this section.

Sec. 17. The board of public works shall have the power to employ expert engineers to see that the location, plans, drawings and specifications approved by the board are fully complied with in the construction of any dam, and to make such rules and regulations necessary to carry into effect this act. The board shall have the power, whenever in its judgment public safety or welfare shall

so require, and after hearing either on its motion or on complaint, to make and serve an order directing any person, corporation, officer or board constructing, maintaining or using any dam in any of the waters of this state, to repair and complete the same within a reasonable time and in such manner as shall be specified in such order, and when in default of such repairing, to remove the same. And it shall be the duty of every such person, corporation and officer or board to obey, observe and comply with such order and with the conditions prescribed by the board for preserving the flow of streams and for safeguarding the public against danger from waters impounded by structures hereinbefore referred to, and every such person, corporation, officer or board failing, omitting or neglecting so to do, or who hereafter constructs or re-constructs any dam in any of the waters aforesaid without submitting to said board and obtaining its approval of plans for such structures, or who hereafter fails to remove, construct, or fails to re-construct the same in accordance with the plans so approved, shall forfeit to the state not to exceed five hundred dollars for each and every offense; every violation of any such order or direction or requirement shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance thereof shall be held to be a separate and distinct offense. This section shall not apply if the dam is located on private property outside of any city, town or village and is not over ten feet in height at any point above the stream bed, and is located where the average high water flow of the stream does not exceed three hundred cubic feet per second; and in any prosecution under this section the burden of establishing such facts shall rest upon the defense.

Sec. 18. The license tax hereinbefore provided for shall be paid annually on or before the first day of July until such corporation begins to sell electrical or other energy, after which the said corporation shall pay, until otherwise fixed by law, in addition to all other taxes, an annual license tax into the treasury of the state of West Virginia on or before the first day of August of each year, of one per cent on the legitimate gross income derived from the sale of electrical energy or power for the license year ending on the thirtieth day of June previous, which legitimate gross income shall be ascertained by the state tax commissioner under such rules and regulations as shall from time to time be prescribed by him. For the purpose of ascertaining such income the president, secretary or treasurer or other managing officer of such corporation shall file with such state

tax commissioner within fifteen days after the thirtieth day of June of each year, a written detail report, under oath, showing the gross legitimate income of such corporation for the year ending on the thirtieth day of June preceding the filing of such report and from what source or sources derived. The state tax commissioner is authorized, in ascertaining such legitimate gross income, to take, or cause to be taken, and to consider in addition to such report any other evidence, including the right to examine under oath, which he is hereby authorized to administer, any officer or agent of such corporation or other person. The phrase "legitimate gross income" as used in this section shall be taken to mean that income which should be derived by such corporation from the sale of its electrical or other energy or power, either within or without the state, whether direct or through any distributing or affiliated company or agency.

Any such corporation feeling itself aggrieved by the decision of the state tax commissioner as to the amount of such legitimate gross income shall have the right, within sixty days, to appeal therefrom to the circuit court of the county where it has constructed or is operating a dam or plant for the production of electrical energy or power, and such corporation, or the state tax commissioner, in the name of the state, shall have the right, within sixty days to appeal from the decision of the circuit court to the supreme court of appeals; but no appeal shall be taken by such corporation to the circuit court until it shall have paid into the treasury the license tax provided hereby upon such legitimate gross income as fixed, in the first instance, by the state tax commissioner. If from the decision of the circuit court unappealed from, or the decision of the supreme court upon appeal, the amount of such license tax shall be decreased, then the auditor shall, by warrant on the treasurer, re-pay to such corporation the difference between the license tax paid into the treasury by it and the license tax upon the legitimate gross income as found by the final decision of the court. If such license tax shall be increased by the final decision of the court, then said corporation shall pay into the treasury the difference between the license tax already paid by it and the license tax upon such legitimate gross income as found by the decision of the court. If such corporation shall fail or refuse to file such report in the time prescribed therefor, or if such corporation or any of its officers or agents shall refuse to comply with any of the provisions of this section, the state tax commissioner shall ascertain, from the best source obtainable, the amount of such

legitimate gross income upon which such license tax should be paid and no appeal shall lie from his decision.

Sec. 19. Any corporation which exercises any of the rights conferred by this act, shall be under the duty and obligation to manufacture and sell to the state and to the people thereof, to the extent of their demand, or to the limit of production, electric current or energy without unjust discrimination and in accordance with the classification now or hereafter prescribed by law, at reasonable price for the same, and in conformity with reasonable rules and regulations. The board of public works shall have power to vacate any rule or regulation which it shall hold to be unreasonable upon complaint, with right of appeal to the complainant or the corporation from the decision of the board of public works to the circuit court of Kanawha county, and an appeal from said court to the supreme court of appeals.

Sec. 20. Nothing contained in this act shall be construed to interfere with the exercise of jurisdiction by the government of the United States over navigable streams.

Sec. 21. If any license tax provided for in this act shall remain in arrears and unpaid for sixty days after the same is due, the state shall have a lien therefor prior to all other liens or claims, except for taxes, on the property of the corporation in default, and upon notice from the board of public works the attorney general shall proceed to enforce such liens by suit in the proper county and to collect such unpaid license tax in the same manner as now provided for the enforcement of any other liens in favor of the state, or a certified statement of such license tax in arrears may be placed in the hands of any sheriff and levied as execution on the property of such corporation in default, and sale under such levy may be made as provided for by law under an execution upon a judgment in favor of the state.

Sec. 22. In the construction and operation of any dam built by any such corporation, more than fifty feet in height, it shall not be required to provide for the passage of fish.

Sec. 23. If any section, or part of section of this act, hereafter, be held by any court to be unconstitutional, such decision and holding shall in no wise affect or render void the remainder of this act.

Sec. 24. When a public service commission, or public utilities commission, is created by law, all the powers and duties hereby vested in the board of public works shall be vested in such public service commission or public utilities commission.

Sec. 25. Any person or corporation which has appeared before the board of public works in behalf of or in opposition to any application of the character mentioned in this act, who believes himself injured in any material right by any decision of such board, shall have the right to appeal from such decision to the circuit court of the county in which the proposed appropriation of water is situated. Such appeal shall be heard promptly; but where the party appealing is the applicant for such appropriation, notice that it will apply for such appeal shall be given to the attorney general at least twenty days before being made.

Sec. 26. The charter or franchise of any corporation now organized or that shall be hereafter organized to engage in or carry on any business subject to the provisions of this act, shall be renewable only upon such terms and conditions as shall then be prescribed by law. *Provided, however,* the authority to a foreign corporation to do business in the state, under the provisions of this act, shall not exceed a term of fifty years. Such term may be extended under such provisions of law as then may be in effect upon the expiration thereof. *Provided,* that the state of West Virginia shall at any time after giving at least two years' notice of its intention so to do, purchase the plant and equipment of any such corporation at its actual value at the time of such purchase, excluding the franchise, which value shall be ascertained in such manner as may be hereafter provided by law.

Sec. 27. The rights conferred by this act upon corporations organized for any of the purposes mentioned in section two of this act shall always be subject to the right of any municipal corporation in this state, where a dam shall be constructed across a stream by any such corporation, to condemn water from such stream and rights-of-way for the transportation of same for public use within such municipal corporation.

Sec. 28. All acts and parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 413.)

CHAPTER 12.

AN ACT to amend and re-enact section two of chapter thirteen of the acts of one thousand nine hundred and seven relating to public uses for which private property and public highways may be taken or damaged.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 23, 1913.)

Sec.

2. Public uses for which private property may be taken.

Be it enacted by the Legislature of West Virginia:

Sec. 2. The public uses for which private property may be taken or damaged are as follows:

First: For the construction of railroads, canals, turnpike roads, county roads, public landings, bridges and public streets and alleys, and all other roads and internal improvements for public use.

Second: For incorporated companies of which the state is sole or part owner.

Third: For court houses and other public buildings for the use of a county or municipal corporation.

Fourth: For cemetery associations and for other cemeteries; *provided*, that the property to be taken for such other cemeteries adjoins the land upon which a church or another cemetery is.

Fifth: For companies organized for the purpose of transporting carbon oil or natural gas, or both, by means of pipes or otherwise, when for public use.

Sixth: For telegraph and telephone companies, when for public use.

Seventh: For public school houses and all other purposes of public utility which now are or may be prescribed by law.

Eighth: By the government of the United States, for the purpose of erecting thereon light houses, signal stations, beacons, locks, dams, works for improving navigation, post offices, custom houses, court houses, or any other needful public structure or work of improvement whatever, subject to provisions of chapter one of this code. But no land shall be so taken for cemetery purposes which lies within four hundred yards of a dwelling house, unless to extend the limits of a cemetery already located, and then only so that such limits shall not be extended nearer to any dwelling house which is within four hundred yards. But this act shall not be construed to interfere with the power of municipal corporations to enact and enforce such ordinances as may be necessary to protect the lives and property of citizens from the effects of explosions of carbon oil or natural gas.

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

(House Bill No. 8.)

CHAPTER 13.

AN ACT to prohibit the manufacture, sale and keeping for sale of malt, vinous or spirituous liquors, wine, porter, ale, beer or any intoxicating drink, mixture or preparation of like nature, except the manufacture, sale and keeping for sale for medicinal, pharmaceutical, mechanical, sacramental or scientific purposes, and the manufacture and sale of denatured alcohol for industrial purposes as regulated and provided for by this act; and to enforce the amendment of section forty-six of article six of the state constitution, ratified on the fifth day of November, one thousand nine hundred and twelve; and making the state tax commissioner *ex officio* state commissioner of prohibition, and defining his duties; and providing for the enforcement of this act and prescribing penalties for violations thereof.

(Passed February 11, 1913. In effect July 1, 1914. Approved by the Governor February 17, 1913.)

- | | |
|--|---|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. Word liquors construed. 2. Manufacture, sale, etc., of liquors forever prohibited; except. 3. Penalty for violation; when a misdemeanor; when a felony; form of indictment deemed sufficient. 4. Exceptions, druggist; physician; prescription; affidavit; penalty for giving to persons of intemperate habits; form of indictment against druggist. 5. Person of intemperate habits or other person use other than stated in affidavit; penalty; if physician of intemperate habits—or without making examination, penalty. 6. Persons assisting in maintaining club house, etc., where liquor is received or kept, sold, given away or divided; penalty. 7. Keeping or giving away. 8. Advertise. 9. Justice of the peace, courts, mayor shall issue warrant, when. 10. Probable cause. 11. When liquors are seized, <i>prima facie</i> evidence shall be publicly destroyed. | <p>SEC.</p> <ol style="list-style-type: none"> 12. Officers may break open house, when. 13. Payment of United States tax <i>prima facie</i> evidence of guilt. 14. Nuisance; who guilty. 15. State tax commissioner <i>ex officio</i> state commissioner of prohibition. 16. Duty of commissioner. 17. Suit in equity may be instituted; injunction, etc. 18. In addition to penalties, bond may be required. 19. Express and railroad companies, etc., shall keep books and record names of persons to whom liquor is shipped. 20. Who may employ attorney to assist in prosecution. 21. Rewards. 22. State right to appeal. 23. Police powers. 24. Sale by manufacturer and wholesale druggist under supervision of commissioner. 25. Sections inconsistent repealed. 26. In effect, when. |
|--|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. The word "liquors" as used in this act shall be construed to embrace all malt, vinous or spirituous liquors, wine, porter, ale, beer or any other intoxicating drink, mixture or preparation of like nature; and all malt or brewed drinks, whether intoxicating or not,

shall be deemed malt liquors within the meaning of this act; and all liquids, mixtures or preparations, whether patented or not, which will produce intoxication, and all beverages containing so much as one-half of one per centum of alcohol by volume, shall be deemed spirituous liquors, and all shall be embraced in the word "liquors," as hereinafter used in this act.

Sec. 2. Except as hereinafter provided, the manufacture, sale, keeping or storing for sale in this state, or offering or exposing for sale of liquors or absinthe or any drink compounded with absinthe, are forever prohibited in this state, except liquors manufactured prior to July first, one thousand nine hundred and fourteen, and stored in United States bonded warehouses in the custody of the United States collector of internal revenue, and the said liquors when tax paid and in transit from such warehouses to points outside of this state.

Sec. 3. Except as hereinafter provided, if any person acting for himself, or by, for or through another shall manufacture or sell or keep, store, offer or expose for sale; or solicit or receive orders for any liquors, or absinthe or any drink compounded with absinthe, he shall be deemed guilty of a misdemeanor for the first offense hereunder, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the county jail not less than two nor more than six months; and upon conviction of the same person for the second offense under this act, he shall be guilty of a felony and be confined in the penitentiary not less than one nor more than five years; and it shall be the duty of the prosecuting attorney in all cases to ascertain whether or not the charge made by the grand jury is the first or second offense; and if it be a second offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of said second offense, and shall not be permitted to use his discretion in charging said second offense, or in introducing evidence and proving the same on the trial; and any person, except a common carrier, who shall act as the agent or employe of such manufacturer or such seller, or person so keeping, storing, offering or exposing for sale said liquors, or act as the agent or employe of the purchaser of such liquors, shall be deemed guilty of such manufacturing or selling, keeping, storing, offering or exposing for sale, as the case may be; and in case of a sale in which a shipment or delivery of such liquors is made by a common, or other carrier, the sale thereof shall be deemed to be

made in the county wherein the delivery thereof is made by such carrier to the consignee, his agent or employe.

An indictment for any first offense under this section shall be sufficient if in the form or effect following:

State of West Virginia,

County of, to-wit:

In the Circuit Court of County:

The grand jurors in and for the body of the said county of, upon their oaths do present that A. B., within one year next prior to the finding of this indictment, in the said county of, did unlawfully manufacture, sell, offer, keep, store and expose for sale and solicit and receive orders for liquors, and absinthe and drink compounded with absinthe, against the peace and dignity of the state.

Sec. 4. The provisions of this act shall not be construed to prevent any one from manufacturing for his own domestic consumption wine or cider; or to prevent the manufacture from fruit grown exclusively within this state of vinegar and non-intoxicating cider for use or sale; or to prevent the manufacture and sale at wholesale to druggists only of pure grain alcohol for medicinal, pharmaceutical, scientific and mechanical purposes, or wine for sacramental purposes by religious bodies; or to prevent the sale and keeping and storing for sale by druggists of pure grain alcohol for mechanical, pharmaceutical, medicinal and scientific purposes, or of wine for sacramental purposes, by religious bodies, or any United States pharmacopoeia or national formulary preparation in conformity with the West Virginia pharmacy law, or any preparation which is exempted by the provisions of the national pure food law, and the sale of which does not require the payment of a United States liquor dealer's tax. But no druggist shall sell any such grain alcohol except for medicinal, scientific, pharmaceutical and mechanical purposes, or wine for sacramental purposes, except as hereinafter provided, and the same shall not be sold by such druggist for medicinal purposes, except upon a written prescription of a physician of good standing in his profession and not of intemperate habits, or addicted to the use of any narcotic drug, prescribing the amount of alcohol, the disease or malady for which it is prescribed, and how it is to be used, the name of the person for whom prescribed, the number of previous prescriptions given by such physician to such person within the year next preceding the date of such prescription, and stating

that the same is absolutely necessary for medicine, and not to be used as a beverage, and that such physician, at the time such prescription was given, made a personal examination of such person, and that such person is known to such physician to be of temperate habits and not addicted to the use of any narcotic drug, and only one sale shall be made upon such prescription, and such prescription shall be at all times kept on file by such druggist and open to the inspection of all state, county and municipal officers. It shall be the duty of such druggist to register in a book kept for that purpose all prescriptions from physicians mentioned in this section, stating the name of the party for whom prescribed, the date of the prescription, the name of the physician by whom the prescription is issued, the quantity of such alcohol and the use for which prescribed, and such record shall at all times be open to the same inspection as such prescriptions.

It shall be lawful for a druggist to sell grain alcohol for pharmaceutical, scientific and mechanical purposes, or wine for sacramental purposes by religious bodies, only to any person, not a minor, and who is not of intemperate habits, or addicted to the use of narcotic drugs, who shall, at the time and place of such sale, make an affidavit in writing signed by himself before such druggist, or a registered pharmacist at the time and place in the employ of such druggist, stating the quantity and the time and place and fully for what purpose and by whom such alcohol or wine is to be used; that affiant is not of intemperate habits or addicted to the use of any narcotic drug; and that such alcohol or wine is not to be used as a beverage, or for any purpose other than that stated in such affidavit. Such affidavit shall be filed and preserved by such druggist and be subject to inspection at all times by any state, county or municipal officer, and a record thereof made by such druggist in the record book mentioned in this section, showing the date of the affidavit, by whom made, the quantity of such alcohol, or wine, and when, where, for what purpose and by whom to be used. Only one sale shall be made upon such affidavit, and only in the county where the same is made, and no greater quantity than is therein specified. For the purpose of this act, any druggist or registered pharmacist making such sale shall have authority to administer such oath.

If any druggist, owner of a drug store, registered pharmacist, clerk or employe shall upon such prescription or affidavit, or otherwise, knowingly sell or give any such alcohol or wine to any person who is of intemperate habits or addicted to the use of any narcotic drug, or knowingly sell or give the same to any one to be used for

any purpose other than that named in said affidavit or prescription, or who shall sell or give away any liquors without such affidavit or prescription, he shall be deemed guilty of a misdemeanor and punished by fine of not less than one hundred nor more than five hundred dollars and confined in the county jail not less than thirty days nor more than six months. In any prosecution against a druggist, owner of a drug store, registered pharmacist, clerk or employe, for selling or giving liquor contrary to law, if a sale or gift be proven, it shall be presumed that the same was unlawful in the absence of satisfactory proof to the contrary and the presentation of such prescription or affidavit by the defendant at the time of the trial for such sale or gift, shall be sufficient to rebut the presumption arising from the proof of such sale or gift. *Provided*, the jury shall believe, from all the evidence in the case, that such sale or gift was made in good faith under the belief that such prescription or affidavit and statements therein were true; and, *provided, further*, that such druggist, owner of a drug store, registered pharmacist, clerk or employe shall have complied with all other provisions of this act relating to the sale or gift.

An indictment against any druggist, registered pharmacist, clerk or employe, for any offense committed under the provisions of this section, shall be sufficient, if in the form and effect following:

State of West Virginia,

County of, to-wit:

In the Circuit Court of said County:

The grand jurors in and for the body of said county of.....
, upon their oaths do present that A. B., within one year next prior to the finding of this indictment, in the said county of did unlawfully sell, give, offer, expose, keep and store for sale and gift, liquors, against the peace and dignity of the state.

Sec. 5. If any person who is of intemperate habits or addicted to the use of any narcotic drug shall make the affidavit mentioned in the preceding section, or if any person making such affidavit shall use as a beverage, or for any purpose, or at any place other than that stated in such affidavit, or shall knowingly permit another to do so, said alcohol or wine, or any part thereof, or shall knowingly make any false statement in such affidavit, he shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than one hundred nor more than five hundred dollars, and be confined in the county jail not less than two nor more than six months for the

first offense hereunder; and for the second offense he shall be deemed guilty of a felony and punished by confinement in the penitentiary not less than one nor more than five years.

And if any physician who is not in good standing in his profession, or who is of intemperate habits, or who is addicted to the use of any narcotic drug, shall issue any such prescription as is mentioned in the last preceding section; or if any physician shall issue such prescription without, at the time, making a personal examination of the person for whom the liquor is prescribed, or shall prescribe for any person who is in the habit of drinking to intoxication and whom he knows, or has reason to believe is in the habit of drinking to intoxication, or shall give such prescription and make the statements therein required, or any part thereof, falsely, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars and imprisoned in the county jail not less than thirty days nor more than six months, and in addition thereto, for the first offense under this statute, the court may, in its discretion, suspend the license of such physician for a period of six months and for each offense thereafter the court shall suspend such license for a period of six months.

Sec. 6. Every person who shall directly or indirectly keep or maintain by himself or by associating with others, or who shall in any manner aid, assist or abet in keeping or maintaining any club house, or other place in which any liquor is received or kept for the purpose of use, gift, barter or sold as a beverage, or for distribution or division among the members of any club or association by any means whatsoever; and every person who shall use, barter, sell or give away, or assist or abet in bartering, selling or giving away any liquors so received or kept, shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by fine of not less than one hundred nor more than five hundred dollars and by imprisonment in the county jail not less than thirty days nor more than six months; and in all cases the members, share-holders or associates in any club or association mentioned in this section, shall be competent witnesses to prove any violations of the provisions of this section, or of this act, or of any fact tending thereto; and no person shall be excused from testifying as to any offense committed by another against any of the provisions of this act by reason of his testimony tending to criminate himself, but the testimony given by such person shall in no case be used against him.

Sec. 7. The keeping or giving away of intoxicating liquors, or

any shifts or devices whatever, to evade the provisions of this act, shall be deemed an unlawful selling within the provisions of this act.

Sec. 8. If any person shall advertise or give notice by signs, bill board, newspapers, periodicals or otherwise for himself or another of the sale or keeping for sale of liquors, or shall circulate or distribute any price-lists, circulars or order blanks advertising liquors or publish any newspaper, magazine, periodical or other written or printed papers, in which such advertisements or notices are given, or shall permit any such notices, or any advertisement of liquors (including bill boards) to be posted upon his premises, or premises under his control, or shall permit the same to so remain upon such premises, he shall be guilty of a misdemeanor and be fined not less than one hundred nor more than five hundred dollars.

Sec. 9. Every justice of the peace and every circuit, criminal or intermediate court, or the judges thereof in vacation, and every mayor of any city, town or village, upon information made under oath or examination that any person is manufacturing, selling, offering, or exposing, keeping or storing for sale or barter, contrary to law, any liquors, or that the affiant has cause to believe and does believe that such liquors so manufactured, sold, offered, kept or stored for sale or barter in any house, building or other place named therein, contrary to the provisions in this act, shall issue his warrant requiring the person suspected to be brought before him for examination, or the said house, building or other place to be searched, and the parties found therein to be arrested and brought before him as aforesaid; and requiring the officer to whom it is directed to summon such witnesses as shall be therein named, or whose names are endorsed thereon to appear and give evidence on the examination, and in the same warrant shall require the officer to whom it is directed to seize and hold all liquors found therein, also vessels, bar fixtures, screens, glasses, bottles, jugs and other appurtenances apparently used in the sale, keeping or storing of such liquors contrary to law.

Sec. 10. If, upon examination of such person, it shall appear to such justice, court, judge or mayor, that there is probable cause to believe him guilty of the offense charged, the accused shall be required to enter into a recognizance, with sufficient securities, in the sum of not less than five hundred dollars, to appear before the next term of the circuit or criminal or intermediate court of the county having jurisdiction, to answer an indictment if one be preferred against him; and upon his failure to enter into such recognizance, the justice, court, judge or mayor shall commit him to jail to answer such indict-

ment. All material witnesses shall also be recognized, with or without sureties, as such justice, court, judge or mayor may deem proper, to appear before the grand jury at the next term of such court and give evidence against the accused, and such justice, court, judge or mayor shall require the accused to give bond with sufficient security in the sum of five hundred dollars conditioned that he will not violate any of the provisions of this act during the time intervening between the date of such bond and the adjournment of the next grand jury term of said circuit or criminal or intermediate court of the county; and upon his failure to give such bond, the justice, court, judge or mayor shall commit him to jail until such bond is given or until he is discharged therefrom by the circuit or intermediate court of the county.

Sec. 11. Whenever liquors shall be seized in any room, building or place which has been searched under the provisions of this act, the finding of such liquors in such room or of a government license therein shall be *prima facie* evidence of the unlawful selling, and keeping and storing for sale of the same by the person, or persons, occupying such premises, or by any person named in any government license posted in such room, or his associates, agents or employes thereunder, and the proprietor or other persons in charge of the premises where such liquor was found, or who is so named in such government license, and his associates, shall be subject to trial by due process of law on the charge of selling or keeping or storing for sale unlawfully such liquor, under the indictment and form prescribed in section three of this act, and upon his conviction of selling, offering, storing or exposing for sale such liquor unlawfully, the liquor found upon said premises shall at once be publicly destroyed by some responsible person to be appointed by the court.

Sec. 12. If in such house, building or place, as is hereinbefore mentioned, the sale, offering, storing or exposing for sale of liquors is carried on clandestinely, or in such manner that the person so selling, offering, exposing, keeping or storing for sale, cannot be seen or identified by the officer or officers charged with the execution of a warrant issued under sections ten and eleven of this act, any such officer may, whenever it is necessary for the arrest or identification of the person so offending, or the seizing of such liquor, break open and enter such house, building or place.

Sec. 13. The payment of the special tax required of liquor dealers by the United States by any person, or persons other than druggists, within the state, shall be *prima facie* evidence that such person, or

persons, are engaged in keeping and selling, offering and exposing for sale, liquors contrary to the laws of this state, and a certificate from the collector of internal revenue, his agents, clerks or deputies, showing the payment of such tax, and the name or names of person to whom issued, and the names of the person or persons, if any, associated with the person to whom such tax receipt is issued, shall be sufficient evidence of the payment of such tax, and of the association of such persons for the selling and keeping, offering and exposing for sale of liquors contrary to the provisions of this act in all trials or legal inquiries.

Sec. 14. All houses, boat houses, buildings, club rooms and places of every description, including drug stores, where intoxicating liquors are manufactured, 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, as provided in section six of this act) shall be held, taken and deemed common and public nuisances. And any person who shall maintain, or shall aid or abet, or knowingly be associated with others in maintaining such common and public nuisance, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months for each offense, and judgment shall be given that such house, building or other place, or any room therein, be abated or closed up as a place for the sale or keeping of such liquors contrary to law, as the court may determine.

Sec. 15. The state tax commissioner shall be *ex officio* state commissioner of prohibition. Wherever the word "commissioner" is used in this act, it shall mean and be taken to mean the state commissioner of prohibition.

Sec. 16. It shall be the duty of the commissioner, his deputies and agents, to superintend the enforcement of all provisions of this act, and of laws of this state affecting the manufacture, sale, keeping, exposing or offering for sale, or giving or soliciting or receiving orders for liquors, or laws connected in any way with the liquor traffic, to diligently inform themselves of all violations of such laws and either make report thereof to the prosecuting attorney of the proper county, who shall forthwith prosecute the same as provided by law, or said commissioner, his agents or deputies, shall make complaint of any violations of any such laws before the proper court

or committing justice, and conduct the prosecution thereof in any court in the state having jurisdiction of such matters; and for the purpose of enforcing such laws, the said commissioner, his agents and deputies, shall have all the powers now vested in the prosecuting attorneys of this state and the attorney general thereof, and of sheriffs, their deputies, and constables and police officers of the state. *Provided*, that nothing in this act shall be construed to take from such prosecuting attorneys or the attorney general, or his assistants, any of the powers now conferred upon them by law, except as herein provided, or to relieve any of the said officers from any duty imposed upon him by any statute of this state.

Sec. 17. The commissioner, his agents and deputies, and the attorney general, prosecuting attorney, or any citizen of the county where such a nuisance as is defined in section fourteen of this act exists, or is kept or maintained, may maintain a suit in equity in the name of the state to abate and perpetually enjoin the same, and courts of equity shall have jurisdiction thereof. The injunction shall be granted at the commencement of the action and no bond shall be required.

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 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 of a drug store; in other cases the order for abatement shall be perpetual.

Any person violating the terms of any injunction granted in proceedings hereunder shall be punished for contempt summarily by the court without the impanelling of any jury to try the same, by a fine of not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days nor more than six months, in the discretion of the court or judge thereof in vacation. In case decree is rendered in favor of the plaintiff in any action brought under the provisions of this section, the court entering the same shall also enter decree for a reasonable attorney's fee in such action in favor of the plaintiff against the defendants therein, which attorney's fee shall be taxed and collected as other

costs therein, and when collected paid to the attorney, or attorneys of the plaintiff therein.

Sec. 18. In addition to the penalties prescribed for violation of any of the provisions of sections two to sixteen, inclusive, of this act, the court may in its discretion, when such conviction is had, require the defendant to execute bond with good security to be approved by the court or clerk thereof, in the penalty of one thousand dollars, conditioned not to violate any of the provisions of any of said sections for the term of two years, and in default of such bond may commit the defendant to jail for said term of two years, unless such bond be sooner given.

Sec. 19. All express companies, railroad companies and transportation companies within this state are hereby required to keep books in which shall be entered immediately upon receipt thereof the name of every person to whom liquors are shipped; the amount and kind received; the date when delivered, and by whom, and to whom delivered, after which record shall be a blank space in which the consignee shall be required to sign his name in person to such record, which book shall be open to the inspection of any state, county or municipal officer in this state, at any time during business hours of the company. Such books shall constitute *prima facie* evidence of the facts therein stated, and be admissible as evidence in any court in this state having jurisdiction, or in any manner empowered with the enforcement of the provisions of this act. Any employe or agent of any express company, railroad company or transportation company knowingly failing or refusing to comply with the provisions of this section, shall be guilty of a misdemeanor and punished by a fine of not less than fifty nor more than one hundred dollars and may be imprisoned in the county jail not less than thirty days nor more than six months.

Sec. 20. Any citizen or organization within this state may employ an attorney to assist the prosecuting attorney to perform his duties under this act, and such attorney shall be recognized by the prosecuting attorney and the court as associate counsel in the proceedings; and no prosecution shall be dismissed over the objection of such associate counsel until the reasons of such prosecuting attorney for such dismissal, together with the objections thereof of such associate counsel, shall have been filed in writing, argued by counsel and fully considered by the court.

Sec. 21. The prosecuting attorney of any county, with the approval of the governor, or of the court of the county vested with authority

to try criminal offenses, or of the judge thereof in vacation, may, within his discretion, offer rewards for the apprehension of persons charged with crime, or may expend money for the detection of crime. Any money expended under this section shall, when approved by the prosecuting attorney, be paid out of the county fund in the same manner as other county expenses are paid.

Sec. 22. In all cases arising under this statute the state shall have the right to appeal.

Sec. 23. This entire act shall be deemed an exercise of the police powers of the state for the protection of public health, peace and morals, and all of its provisions shall be liberally construed for the attainment of that purpose.

Sec. 24. The manufacture of alcohol, wine and liquors, and the sale of the same by the manufacturer and by wholesale druggists, shall be under the supervision of the commissioner and under such rules and regulations as he may from time to time prescribe.

Sec. 25. Paragraphs b, c, d, h and y of section one, and section ten, section forty, section sixty-six, section seventy-four, section seventy-seven, sections eighty-seven, eighty-eight, eighty-eight-a, section ninety-two and section one hundred and twenty-a of the code of one thousand nine hundred and six, as amended and re-enacted by chapter eighty-two of the acts of one thousand nine hundred and seven, and sections eighty-seven, eighty-seven-a and section one hundred and twenty-a of chapter sixty-eight of the acts of one thousand nine hundred and nine, and all other acts and parts of act inconsistent with the provisions of this act are hereby repealed.

Sec. 26. All of the provisions of this act shall take effect on the first day of July, one thousand nine hundred and fourteen.

(Senate Bill No. 1.)

CHAPTER 14.

AN ACT to prevent the introduction and spread and to provide for the control of the San Jose scale and other dangerous insects and dangerously injurious plant diseases affecting nursery, orchard, forest and shade trees, shrubs, vines, cuttings, seeds and bulbs, or affecting plants or parts of plants of any kind or such as may harbor such injurious insect pests or plant diseases, and repealing chapter seventy-two of the acts of the legislature of one thousand nine hundred and seven.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 26, 1913.)

- | | |
|---|---|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. State crop pest commission created; shall appoint state entomologist and other assistants; duties of commission; penalty for refusing to comply with orders. 2. Powers of commission. 3. Duty of commission as to nursery stock grown or brought in this state; penalty against common carrier for violation. 4. Power of entomologist and assistants. 5. Treatment to be executed. 6. Trees or vines, etc., diseased to be marked—and treated as ordered; duty of officer in case of refusal or neglect. 7. Authority of officers to enter premises. | <p>SEC.</p> <ol style="list-style-type: none"> 8. Unlawful to deliver in this state nursery stock that has not been inspected; duty of transportation companies; penalty. 9. Freeholders may petition for investigation of locality. 10. County court or municipality to fix compensation of inspector. 11. Duty of entomologist and assistant. 12. Unlawful to offer for sale or give away nursery stock without first procuring certificate; penalty. 13. Auditor's duty as to money. 14. Charges against appropriation for funds, etc.; biennial report to be made. 15. Inconsistent laws repealed. |
|---|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the director of the West Virginia agricultural experiment station, the commissioner of agriculture, and the president of the West Virginia horticultural society are hereby created, *ex officio*, a state crop pest commission with powers and duties as hereinafter provided. Said commission shall appoint the entomologist of the West Virginia agricultural experiment station as state entomologist and plant pathologist, hereinafter called state entomologist, and such assistants as may be necessary, who shall, acting under the authority of said commission be charged with and perform such duties as are hereinafter specified. This state crop pest commission shall, from time to time, after due consideration, prepare a list of such dangerously injurious insect pests and diseases of plants affecting nursery, orchard, forest, and shade trees, shrubs, vines, cuttings, seeds, and bulbs, or affecting plants or parts of plants of any kind, or such plants or products of plants as may harbor such injurious insects or plant diseases, as may properly within its judgment and the judgment of the state entomologist, be controlled or eradicated, and they shall cause such list to be published, along with particular specifications as to the nature and appearance of, and the manner in which said pests are generally disseminated. The state crop pest commission shall, at the same time, provide rules and regulations under which the state entomologist shall proceed to investigate, control, eradicate, and prevent the dissemination of the said insect pests and plant diseases and to treat or destroy such plants or parts of plants or products of plants as may harbor such injurious insects and plant diseases, as far as may be possible, and these rules and

regulations shall have the full force and effect of law so far as they conform to this act and the general laws of this state and of the United States; and any person, persons, firm or corporation who fails or refuses to comply with the orders or directions issued in writing under regulations provided by the state crop pest commission, shall upon conviction thereof, be fined in the sum of not less than ten nor more than twenty-five dollars for each failure or refusal.

Sec. 2. The state crop pest commission shall have power to provide quarantine rules and regulations concerning the transportation and sale of all plants, or parts of plants, commonly known as nursery stock, within this state. They shall also have like power to provide like rules and regulations in regard to all plants or parts of plants commonly known as nursery stock, entering this state from without, and these rules and regulations shall be enforced by the state entomologist or his duly authorized assistants.

Sec. 3. It shall be the duty of this commission to provide for the annual inspection of all nursery stock grown within the state prior to October first of each year, by the state entomologist or his assistants, who shall issue a certificate stating the nursery to be apparently free from insect pests and plant diseases to the owners of all nurseries found entitled to the same, and it shall further provide regulations under which nursery stock brought into the state may be sold under the above provided certificates, and in accordance with the further provisions of this act. It shall be unlawful after the promulgation of the rules and regulations provided for in this act for any person, persons, firm, corporation or common carriers to transport by land or water, plants or parts of plants commonly known as nursery stock, in violation of the same, and every such offense shall constitute a misdemeanor, and upon conviction thereof, the person, persons, firm or corporation, or common carrier so convicted shall be fined in the sum of not less than fifty dollars nor more than one hundred dollars for each and every violation of this act.

Sec. 4. The state entomologist, or any of his assistants, or a local inspector as hereinafter provided, shall have power under the rules and regulations of said commission to determine the nature and method of the treatment to which any infested plants, parts of plants, or plants harboring dangerously injurious insects or plant diseases shall be subjected, and he shall report his findings in print or writing, giving reasons therefor, to the owner of the infested plants, his agents or tenants, and a copy of such report shall be sub-

mitted to the commission, and there shall accompany each and every such report specific directions as to the treatment of the infested plants, or parts of plants, or plants harboring such dangerously injurious insects or plant diseases, which directions may be in printing or writing. In case of objection to the finding of the state entomologist or an assistant or local inspector, an appeal shall lie to the said commission, whose decision shall be final; such appeal must be taken within seven days from the receipt of such report, and shall act as a stay of proceedings until it is heard and decided.

Sec. 5. Upon the receipt of the report of the state entomologist, an assistant, or local inspector, the treatment prescribed shall be executed at once, unless appeal is taken, under the supervision of the state entomologist, an assistant, or local inspector, the cost of material and labor to be borne by the owner of the premises.

Sec. 6. Should any of the officers aforesaid, through their assistants or employes, or by any notification whatsoever, find any trees, vines, shrubs, plants or parts of plants infested or diseased with, or harboring, insects or diseases published by the state crop pest commission as dangerously injurious, the aforesaid officers shall mark or tag in some conspicuous way all trees, vines, shrubs, plants or parts of plants infested with or harboring the aforesaid insects or diseases, and shall give notice in writing to the owner or owners, tenant or persons in charge of such premises of the conditions thereof; and thereupon, if such person or persons so notified, shall not within ten days after notification destroy or treat the same in accordance with the rules and regulations of the state crop pest commission, which regulations shall accompany said notice, a copy of which rules and regulations shall be sent upon application to any person, then the state crop pest commission shall, through its officers, assistants or employes destroy or treat all such trees, vines, shrubs, plants or parts of plants. Whenever any such infestation shall exist at any place, within or on the property of any non-resident, or on any property the owner or owners of which cannot be found within the county after diligent search by the state entomologist or his assistants or a local inspector, or on the property of any owner or owners upon whom the notice aforesaid has been served, and who shall refuse or neglect to eradicate the same within the time specified, it shall be the duty of the state entomologist to cause said infestation to be at once removed by eradicating or destroying said plant diseases or injurious insects, their eggs or larvae, or by destroying any trees, vines, shrubs, plants or parts of plants harboring the same. The necessary expense

thereof shall be paid by the owner or owners of the real estate from which said infestation has been removed in pursuance of this act. The state entomologist or his assistant or a local inspector shall serve or cause to be served upon said owner or any one in possession and in charge of such real estate, a notice stating the amount of said charge, and further stating that if said charge be not paid to the sheriff of the county wherein said real estate is located within twenty days from the date of the service of said notice, that the same shall become a lien upon the real estate. Copy of said notice, including the amount of said charge together with the proof of service, shall be at once filed with the sheriff, and if said amount is not paid to the sheriff within the time therein stated, said amount shall become a lien against said real estate and shall be collected as delinquent taxes are collected, and said real estate shall be sold for the non-payment of said charges the same as may now or may hereafter be provided by law for sale of real estate for delinquent taxes, and the county court shall order the sheriff to pay such charges out of the general fund of said county; and when said amount is collected by the sheriff it shall be paid back into the general fund of said county. The sheriff shall forward to the state treasurer on the first of each month all amounts thus received. These amounts shall be paid into the general fund of the state crop pest commission.

Sec. 7. The said crop pest commission, its agents or employes, are hereby empowered with authority to enter upon any public or private premises for the purpose of inspecting, destroying or treating insects or plant diseases determined and published by the state crop pest commission to be dangerously injurious, or such trees, vines, shrubs, plants or parts of plants as may harbor such injurious insect pests or plant diseases as prescribed in section one of this act. Any person, persons, firm or corporation who shall obstruct or hinder it or its agents in the discharge of their duties shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty dollars nor more than fifty dollars for each such offense.

Sec. 8. It shall be unlawful to deliver or give away within the boundaries of this state plants or parts of plants commonly known as nursery stock which have not been duly inspected in accordance with the provisions of this act and do not carry plainly attached to each car load, box, bale or package a copy of a certificate as herein provided, except that in case of nursery stock shipped into the state from without, the state crop pest commission shall provide by regu-

lation for the acceptance of proper certificates from other states, and when so accepted it shall issue an official tag designating the fact, which tag must be attached to all such shipments; but no nursery stock shall be sold or shipped under the certificate issued as provided herein that was not raised in the nursery for or to which the said certificate was issued until such stock has been duly examined as provided herein and found to be apparently free from any dangerously injurious insect pest or plant disease.

All transportation companies bringing nursery stock into this state shall immediately, upon receiving such consignment, notify the state entomologist of the fact that such consignment is in their possession or is enroute to some point within the state and give the names of the consignor and consignee, the point of shipment and the destination of such consignment, and the name of the transportation company bringing such stock, and shall make such further report relative to such shipment as the state crop pest commission may from time to time require.

Each and every violation of this section shall constitute a misdemeanor and upon conviction thereof any person, persons, firm or corporation so convicted shall be fined in a sum not less than twenty-five dollars nor more than fifty dollars. This section shall not be so construed as to affect the action of common carriers in the transportation of nursery stock under the provision of interstate commerce.

Sec. 9. Upon a petition signed by ten freeholders of any city, county or magisterial district, it shall be the duty of the state entomologist, in person or by an assistant, to make a preliminary investigation of the locality from which the petition is received, to ascertain if any trees or plants be infested with or harbor the insect known as the San Jose scale or any other dangerously injurious insects or plant diseases as determined by the state crop pest commission under section one of this act. If, upon such preliminary investigation, it shall appear that the San Jose scale or such other dangerously injurious insects or plant diseases as above mentioned are present in the territory examined, the state entomologist may appoint a local inspector, and order a full inspection of such city, county or magisterial district to discover and locate all infested premises; and the local inspector shall report the result of such further inspection to the owners of all infested premises and shall give notice to destroy or treat the same as provided in section six of this act.

Sec. 10. The county court of any county or the city council of any city in which a local inspector has been appointed shall fix the com-

compensation of such local inspector, whose pay, however, shall not in any case be less than two dollars for each day's work, and said local inspector shall file before the said county court or city council from time to time an itemized account of the expenses and costs incurred in the performance of his duties, and a statement of the days actually occupied in the performance of the duties hereinbefore prescribed, and the same shall be allowed him and paid as other claims against the county or city, not to exceed two hundred and fifty dollars in any one year; but the county court of any county or the council of any city may pay any sum in excess of two hundred and fifty dollars which it may deem proper.

Sec. 11. It shall be the duty of the state entomologist, either in person or by an assistant or local inspector to supervise and direct the execution of any recommendations made under the provisions of this act, and all expenses of treatment, control and eradication of any infested trees or plants shall be borne by the owner of the premises upon which the same are located as provided for in sections four, five and six of this act.

Sec. 12. From and after the first day of July, one thousand nine hundred and thirteen, it shall be unlawful for any person, persons, firm or corporation either for himself or as agent for another to offer for sale, sell, deliver or give away within the bounds of this state, any plants or parts of plants commonly known as nursery stock unless such person, persons, firm or corporation shall have first procured from the state auditor a certificate of registration, which certificate shall contain such rules and regulations concerning the sale of nursery stock as the state crop pest commission may prescribe, and be approved and countersigned by the state entomologist, who shall have full power, and is hereby authorized and required to cancel and withdraw any certificate upon satisfactory evidence that any rules and regulations governing the sale of nursery stock within this state have been violated by the holder of the same. The state auditor shall not issue any certificate of registration except upon the payment of the sum of five dollars, and shall forward all certificates to the state entomologist for his approval before allowing the same to the party making application therefor, and all such certificates as may be granted shall expire and become null and void one year from the date of issue thereof, and any person, persons, firm or corporation either for himself or as an agent for another who shall sell, offer for sale, deliver or give away any plants or parts of plants commonly

known as nursery stock without exhibiting a copy of the certificate of registration as herein provided for, to each and every person to whom he shall sell, offer for sale, deliver or give away any such plants or parts of plants shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars for each offense. It shall be the duty of the prosecuting attorney of the county wherein the offense is committed to prosecute all violations of this act, and all amounts recovered as fines for violations of this act shall be paid over to the state treasury.

Sec. 13. The state auditor shall set aside and reserve all moneys coming into his hands in pursuance of the provisions of this act, and shall from time to time draw his warrant for the same in favor of the crop pest commission in payment of services and expenses incurred in the inspection of the various nurseries of the state, and the inspection of nursery plants sold by agents representing nurseries from without this state.

Sec. 14. All charges against any appropriations for or funds of the state crop pest commission shall be upon properly itemized vouchers, as may be prescribed by the state board of control, and shall be certified by the director of the West Virginia agricultural experiment station, who shall be chairman of the state crop pest commission, and by the state board of control. The said commission shall cause to be made a biennial report to the governor of the state, giving in detail its operations and expenditures under this act, on or before December first of each year, and it shall be the duty of the state printer to print the same in such numbers as the governor may direct, and the cost of such printing shall be paid out of the general printing fund of the state.

Sec. 15. Chapter seventy-two of the acts of one thousand nine hundred and seven, known as the San Jose scale law and all other acts or parts of acts inconsistent with this act are hereby repealed.

(Senate Bill No. 13.)

CHAPTER 15.

AN ACT to regulate and provide for the supervision of investment companies, and prevent the sale of worthless securities.

(Passed February 6, 1913. In effect ninety days from passage. Approved by the Governor February 11, 1913.)

SEC.	SEC.
1. Domestic investment company designated.	9. How accounts shall be kept.
2. Statements and fee shall be filed in auditor's office; other papers also to be filed.	10. Auditor shall have control over all investment companies.
3. Papers to be verified by oath.	11. Duty of auditor when investment company is impaired or fails to file papers, etc.
4. Foreign investment companies to file written consent, etc.	12. Penalty for making false statement.
5. Duty of the auditor.	13. Penalty for attempting to sell without having complied with the provisions of this act, or aids in violation of this act.
6. Not lawful for investment company except as provided, until; amendments to charter, etc., not in force until.	14. All fees collected by auditor; auditor authorized to appoint additional clerk; how paid.
7. Investment company may appoint agents—who shall register; fee.	15. Conflicting acts repealed.
8. Statements verified by oath to be filed, when; filing fee; penalty.	

Be it enacted by the Legislature of West Virginia:

Sec. 1. Every corporation, every co-partnership, every company, every individual and every association, (other than state and national banks, surety or guaranty companies, trust companies, and duly authorized insurance companies, real estate mortgage companies, dealing exclusively in real estate mortgage notes, building and loan associations, and corporations not organized for profit), organized or which shall be organized in this state, whether incorporated or unincorporated, which sell or negotiate for the sale of any stocks, bonds, debentures, or other securities of any kind or character other than bonds of the United States, or of some county, district or municipality of the state of West Virginia, and notes secured by mortgages on real estate located in this state, to any person or persons in the state of West Virginia, shall be known for the purpose of this act as a domestic investment company. Every such investment company organized in any other state, territory or government shall be known for the purpose of this act as a foreign investment company. In all respects, other than those covered by this act, such foreign investment companies shall be governed by the law of this state applicable to non-resident corporations.

Sec. 2. Before offering or attempting to sell any stocks, bonds, debentures, or other securities of any kind or character, other than those specifically exempted in section one of this act, to any person or persons, or transacting any business whatever in this state, except that of preparing the documents hereinafter required, every such investment company, domestic or foreign, shall file in the office of the auditor of this state, together with a filing fee of two dollars and

fifty cents, the following documents, viz: a statement showing in full detail the plan upon which it proposes to transact business; a copy of all contracts, bonds, or other instruments which it proposes to make with, or sell to, its contributors; a statement which shall show the name and location of the investment company, and an itemized account of its actual financial condition, and the amount and location of its property and liabilities, and such other information touching its affairs as said auditor may require. If such investment company shall be a co-partnership or an incorporated association, it shall also file with the auditor a copy of its articles of co-partnership or association, and all other papers pertaining to its organization, and if it be a corporation organized under the laws of this state, it shall also file with the auditor a copy of its articles of incorporation, constitution and by-laws, of any and all resolutions under which any contracts are to be made with contributors, or securities issued for sale, and all other papers pertaining to its organization. If it shall be an investment company organized under the laws of any other state, territory or government, incorporated or unincorporated, it shall also file with the said auditor a copy of the laws of said state, territory or government, under which it exists or is incorporated, and also a copy of its charter, articles of incorporation, constitution and by-laws and all amendments thereof which have been made, and all other papers pertaining to its organization. No investment company which is a non-resident corporation shall be entitled to receive the license to transact business in this state provided by law until it shall have complied in all respects with the provisions and requirements of this act.

Sec. 3. All of the above described papers shall be verified by the oath of a member of the co-partnership or company, if it be a co-partnership or company, or by the oath of a duly authorized officer, if it be an incorporated or unincorporated association. All such papers, however, as are recorded, or are on file, in any public office shall be further certified to by the officer of whose record or archives they form a part, as being correct copies of such record or archives.

Sec. 4. Every foreign investment company shall also file with the auditor its written consent, irrevocable, that actions may be commenced against it in the proper court of any county in this state, in which a cause of action may arise, or in which the plaintiff in such suit may reside, by the service of process on the auditor of this state, and stipulating and agreeing that such service of process on such auditor shall be taken and held in all courts to be as valid and

binding as if due service had been made upon the company itself, according to the laws of this or any other state, and further expressly authorizing such auditor to accept service of any process, order or notice against such company, issued from any court in this state, and agreeing that such acceptance of service shall have like force and effect as is above provided for service thereof upon such auditor, and such instrument shall be authenticated by the seal of said foreign investment company and by the signature of a member of the co-partnership or company, if it be a co-partnership or company, or by the signatures of the president and secretary of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, and shall be accompanied by a duly certified copy of the order or resolution of the board of directors, trustees or managers of the corporation or association authorizing the said president and secretary to execute the same.

Sec. 5. It shall be the duty of the auditor to examine the statement and documents so filed, and if said auditor shall deem it advisable he shall have made a detailed examination of such investment company's affairs, which examination shall be made under the supervision of said auditor, and such examination shall be at the expense of such investment company, as hereinafter provided. And if the said auditor, upon his investigation, finds that such investment company is solvent, that its articles of incorporation or association, its constitution and by-laws, its proposed plan of business and proposed contract or securities contain and provide for a fair, just and equitable plan for the transaction of business, and in his judgment promises a fair return on the stocks, bonds, debentures and other securities by it offered for sale, said auditor shall issue to such investment company a statement reciting that such company has complied with the provisions of this act; that detailed information in regard to the company and its securities is on file in the auditor's office for public inspection and information; that such investment company is permitted to do business in this state; and such statement shall also recite in bold type that such auditor in no wise recommends the securities to be offered for sale by such investment or security company. But if said auditor finds that such articles of incorporation, or association, charter, constitution and by-laws, plan of business, or proposed contract contain any provisions that are unfair, unjust, inequitable or oppressive to any class of contributors, or if he decides from his investigation of its affairs that such investment company is not solvent and does not intend to do a fair and

honest business, and in his judgment does not promise a fair return on the stocks, bonds, debentures, or other securities by it offered for sale, then he shall notify such investment company in writing of his findings, and it shall be unlawful for such company to do any further business in this state until it shall so change its constitution and by-laws, articles of incorporation or association, its proposed plan of business and proposed contract, and its general financial condition, in such manner as to satisfy the auditor that it is solvent, and its articles of incorporation or association, its constitution and by-laws, its proposed plan of business, and proposed contract are *bona fide*, and provide for a fair, just and equitable plan for the transaction of business, and does in his judgment promise a fair return on the stocks, bonds and other securities by it offered for sale. All expenses paid or incurred and all fees or charges received or acquired for the filing and examination of any report required hereunder, or for any examination authorized to be made hereunder, shall be reported in detail by the said auditor, and a full account rendered and made thereof.

Sec. 6. It shall not be lawful for any investment company, either as principal or agent, to transact any business in form or character similar to that set forth in section one of this act, except as provided in section two, until it shall have filed the papers and documents, and received from the auditor the statement above provided for. No amendment of the charter, article of incorporation, or constitution and by-laws of any such investment company shall become operative until a copy of the same has been filed with the auditor of this state as provided in regard to the original filing of charters, articles of incorporation, constitution and by-laws, nor shall it be lawful for any such investment company to transact business on any other plan than that set forth in the statement required to be filed by section two of this act, or to make any contracts other than the one shown in the copy of the proposed contract required to be filed by section two of this act, until a written statement showing in full detail the proposed new plan of transacting business, and a copy of the proposed new contract shall have been filed with the auditor in like manner as provided in regard to the original plan of business and proposed contract, and the consent of the auditor obtained to the proposed change in the plan or contract.

Sec. 7. Any investment company may appoint one or more agents, but no such agent shall do any business for said investment company in this state until he shall first register with the auditor of this

state as agent for such investment company, and for each of said registrations there shall be paid to the auditor the sum of one dollar. Such registration shall entitle such agent to represent said investment company as its agent until the first day of July following, unless such authority is sooner revoked by the auditor; and such authority shall be subject to revocation at any time by said auditor upon notice to the holder for cause appearing to him sufficient.

Sec. 8. Every investment company, domestic or foreign, shall file at the close of business on June thirtieth and December thirty-first of each year, and at such other times as may be required by the auditor, a statement verified by the oath of at least two members of the co-partnership or company, if it be a co-partnership or company, or by the oath of a duly authorized officer, if it be an incorporated or unincorporated association, setting forth in such form as may be prescribed by the said auditor, its financial condition and the amount and description of its assets and liabilities, and furnishing such other information concerning its affairs as said auditor may require. Each regular statement of June thirtieth and December thirty-first shall be accompanied by a filing fee of two dollars. Any investment company failing to file its report at the close of business on June thirtieth and December thirty-first of each year within ten days of that date, or failing to file any other or special report herein provided for within thirty days after the issuance by the auditor of notice or request therefor, shall forfeit its right to do business in this state, and the auditor shall thereupon revoke the statement in favor of such company provided for in section five of this act.

Sec. 9. The general accounts of every investment company, domestic or foreign, doing business in this state, shall be kept by double entry, and such company, its co-partners or managing officers, shall at least once a month make a trial balance of such accounts, which shall be recorded in a book provided for that purpose; such trial balance and all other books and accounts of such company shall at all times during business hours, except on Sundays and legal holidays, be open to the inspection of stockholders and investors in said company, or investors in the stocks, bonds or other securities by it sold or offered for sale, and to the state auditor and his assistants.

Sec. 10. The auditor of this state shall have general supervision and control, as provided by this act, over any and all investment companies, domestic or foreign, doing business in this state, and all such investment companies shall be subject to examination by the said auditor, or his duly authorized assistants, at any time the said

auditor may deem it advisable. The rights, powers and privileges of the state auditor in connection with such examinations shall be the same in all respects as is now provided with reference to the examination of insurance companies; and such investment company shall pay the expense of such examination, and the failure or refusal of any investment company to pay such expense, upon the demand of the auditor or his assistant, shall work a forfeiture of its right to do business in this state.

Sec. 11. Whenever it shall appear to the said auditor that the assets of any investment company doing business in this state are impaired to the extent that such assets do not equal its liabilities, or that it is conducting its business in an unsafe, inequitable or unauthorized manner, or is jeopardizing the interests of its stockholders, or investors in stocks, bonds, or other securities by it sold or offered for sale, or whenever any investment company shall fail or refuse to file any papers, statements or documents required by this act, without giving satisfactory reasons therefor, said auditor shall at once communicate such facts to the attorney-general who shall thereupon apply to the circuit court of the county in which such company is located or is doing business, or to the judge of such court in vacation, for the appointment of a receiver to take charge of and wind up the business of such investment company, and if such fact or facts be made to appear, it shall be sufficient evidence to authorize the appointment by the court of such receiver and the making of such orders and decrees in such case as equity and the proper protection of the interests of investors may require.

Sec. 12. Any person who shall knowingly or wilfully subscribe to, or make, or cause to be made, any false statement or false entry in any book of such investment company, or exhibit any false paper with the intention of deceiving any person authorized to examine into and pass upon the affairs of such investment company, or who shall make and publish any false statement of the financial condition of such investment company, or who shall make and publish any false statement in relation to the stocks, bonds or other securities by it offered for sale, shall be deemed guilty of a felony and upon conviction thereof shall be fined not less than two hundred dollars nor more than ten thousand dollars, and shall be imprisoned for not less than one year nor more than five years in the state penitentiary. *Provided*, that nothing herein shall in any wise limit or interfere with the civil liability of any person or persons so convicted for any loss occasioned by such criminal act.

Sec. 13. Any person or persons, agent or agents, who shall sell or attempt to sell, or who shall offer for sale in this state any of the stocks, bonds, debentures or any other securities of any investment company, domestic or foreign, which has not obtained the statement provided for in section five, or the stocks, bonds or other securities of other concerns by it offered for sale, who have not complied with the provisions of this act, or any investment company, domestic or foreign, which shall do any business, or offer or attempt to do any business except filing the statements and reports provided for in section two of this act, which shall not have complied with the provisions of this act, and received from the auditor the statement thereof provided for in section five of this act, or any agent or agents who shall do or attempt to do in this state any business for any investment company, domestic or foreign, which agent is not at the time duly registered and has not fully complied with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than one hundred dollars nor more than one thousand dollars; and shall, in the case of an individual, be imprisoned in the county jail for not less than thirty days nor more than ninety days.

Every officer, agent, employe or stockholder of any such investment company who shall violate, or who procures, aids or in any manner abets any violation of this act shall be deemed guilty of either the felony or misdemeanor above provided, as the fact may be, and all shall be guilty as principals and upon conviction shall be punished as hereinbefore provided.

Sec. 14. All expenses and fees herein provided for shall be collected by the said auditor, (save where fees are directed to be paid to some other officer) and shall be accounted for and turned into the state treasury, and the amount of the expenses and fees so turned into the state treasury are hereby reappropriated to the said auditor for the purpose, and in an amount sufficient to pay the cost and expense of carrying this act into effect; and the said auditor is hereby authorized to appoint an additional clerk, if the same shall be found by him to be actually and absolutely necessary, to carry this act into full force and effect. All money actually and necessarily paid out, or expenses incurred by the said auditor or any clerk under his direction, under this act, shall be paid by the state treasurer out of such sums for expenses and fees received under this act, upon the state auditor's warrants, to be issued upon vouchers containing an

itemized account of the salaries or expenses for which the same are issued.

Sec. 15. All acts and parts of acts in conflict with this act or any provision thereof are hereby repealed.

(Substitute for Senate Bill No. 21.)

CHAPTER 16.

AN ACT to amend and re-enact chapter ten of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-one, preventing the manufacture of cigarettes and cigarette paper, and relating to the sale, giving away or furnishing cigarettes, cigarette paper, the use thereof, and to prohibit the selling, offering, giving or furnishing, or causing to be furnished any pipe, cigar or tobacco in any form to a person under the age of sixteen years, and regulating the sale of opium and providing penalties for the violation thereof.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 24, 1913.)

SEC.

1. Unlawful to manufacture, sell, offer for sale or give or cause to be given any person under twenty-one years cigarette or cigarette paper; unlawful to sell, give or furnish to any person under sixteen years any cigar, pipe or tobacco.
2. Unlawful for any person under twenty-one years to smoke, or have about his person cigarette

SEC.

- or cigarette paper: penalty for violation; court or justice may.
3. Duty of officers; penalty against officers for failure to do duty.
4. A misdemeanor to smoke cigarette on school premises.
5. Unlawful to furnish any person opium except as prescribed.
6. Penalty for violation of any of the provisions of this act.
7. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That it shall be unlawful for any person, firm or corporation to manufacture, or to sell, offer or expose for sale, or give away, or furnish, or cause to be given away or furnished to any person under the age of twenty-one years, any cigarette, or cigarette paper, or any other paper prepared to be filled with smoking tobacco for cigarette use; and it shall be unlawful for any person, firm or corporation to sell, offer, give away or furnish, or cause to be given away, or furnished, to any person under the age of sixteen years any cigar, pipe or tobacco in any form.

Sec. 2. That it shall be unlawful for any person under the age of twenty-one years to smoke, or to have about his person, or premises,

any cigarette or cigarette paper, or any other form prepared to be filled with smoking tobacco for cigarette use. Any person violating the provisions of this section shall be punished by a fine of not exceeding five dollars; *provided*, that the court or justice trying the case may remit the penalty for violation of this section, upon the disclosure by the person charged with the offense of the name of the person, firm or corporation from whom he obtained any such cigarette or cigarette paper.

Sec. 3. That it shall be the duty of every constable, policeman, town sergeant, sheriff or his deputy when he finds any person under the age of twenty-one years smoking a cigarette, or with a cigarette or cigarette paper in his possession, to immediately inquire of such person where and of whom he obtained such cigarette or cigarette paper, and upon failure of any person to give such information when requested by such officer, the officer shall arrest such person and take him before a justice or other officer having jurisdiction, to be dealt with as provided in section two of this act. Upon information of such person to said officer of the violation of any of the provisions of sections one and two of this chapter, he shall immediately report such information to the prosecuting attorney of the county, who shall have the person giving such information, along with any other witnesses having any knowledge of the transaction, summoned before the grand jury at its next session for investigation.

Any officer failing to perform the duties required of him by this section shall be fined not exceeding five dollars for each offense. Justices of the peace and police judges are hereby given concurrent jurisdiction with the circuit and criminal courts of this state of offenses under this chapter.

Sec. 4. Every person who shall smoke or use a cigarette or cigarettes in any school building or any buildings or such parts thereof as may be used for school purposes, or on any lands used for school purposes, shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine of not less than one nor more than five dollars.

Sec. 5. It shall be unlawful for any person, firm or corporation to sell, or give away, or in any other manner to supply or furnish any person in this state opium in any form; but the provisions of this section shall not apply to any sale of opium by a registered pharmacist upon the written prescription of a practicing physician in good standing in his profession, nor to any reputable physician dispensing opium in the regular course of his practice.

Sec. 6. Any person, firm or corporation violating any of the provisions of this act, where punishment is not otherwise provided, shall be liable to a fine of not less than ten dollars, nor more than twenty-five dollars for the first offense, and for each subsequent offense shall be liable for a fine of not less than twenty-five dollars nor more than three hundred dollars, and on failure to pay the fine and costs of prosecution, shall be required to work the same out on the public roads.

Sec. 7. All acts and parts of acts inconsistent with this act are hereby repealed.

(House Bill No. 25.)

CHAPTER 17.

AN ACT to preserve competition among common carriers in the state of West Virginia, and to prevent monopoly of the business of common carrier and protect intrastate commerce from restraint and monopoly.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 25, 1913.)

Sec.	SEC.
1. Railroads prohibited from consolidating, leasing or becoming owner of a parallel line.	stock in a competing line of railroad.
2. Officers, agents or attorneys of one cannot serve as officer for a parallel or competing line.	4. Penalty for violation of any provision of this act.
3. Unlawful for railroad company to hold, own or control capital	5. Jurisdiction of the circuit courts; who may institute and prosecute suit.

Be it enacted by the Legislature of West Virginia:

Sec. 1. No railroad company organized and existing under the laws of the state of West Virginia, or organized under the laws of the state of Virginia prior to June twenty-first, one thousand eight hundred and sixty-three, or existing by a consolidation of other railroad corporations; no railroad company organized under the laws of any other state or territory, which owns, controls, operates or is interested in, any railroad in the state of West Virginia, or which transacts business in the state of West Virginia, shall consolidate its stock, property or franchises with that of any other railroad company, or lease, purchase or in any manner become owner of, or interested in, or control any railroad corporation or any

franchise, right or property thereof, which owns, controls operates or is interested in, any parallel or any competing line of railroad which is located, or any part of which is located in the state of West Virginia; the fact of such consolidation of stock, property or franchises, or of such lease, purchase or ownership of, interest in or control by any such railroad company of any railroad corporation or any franchise, right or property thereof which owns, controls, operates or is interested in any parallel or any competing line of railroad which is located, or any part of which is located in the state of West Virginia, shall be determined by a jury if and whenever it shall be necessary to so determine the same.

Sec. 2. It shall be unlawful for any director, officer, agent, representative or attorney of any railroad company mentioned in the first section of this act, or of any corporation controlled by any such railroad company or in which it is interested through stock ownership or otherwise, to act or serve as president, vice president, director or general executive officer of any kind, of any railroad company owning or controlling or interested in any parallel or competing line.

Sec. 3. On and after July first, one thousand nine hundred and thirteen, it shall be unlawful for any such railroad company as is mentioned in section one of this act, to hold, own or control or in any manner to be interested either directly or by the ownership of capital stock of some other corporation, or to own or have any equitable interest in any of the shares of the capital stock of any railroad company, which owns, controls or is interested in any competing line or parallel line of railroad, all or any part of which is located in the state of West Virginia.

Sec. 4. Any railroad company violating any provision of this act shall be guilty of a misdemeanor and upon conviction shall be fined not more than five thousand dollars for each offense. Each director and general officer of any railroad company so offending shall likewise be guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars and confined in jail not less than six months nor more than one year for each offense. The circuit or criminal court of any county in the state in which such railroad company is engaged in the business of a common carrier, shall have jurisdiction to try and punish any offender under this act.

Sec. 5. The several circuit courts of the counties of West Virginia are hereby given jurisdiction to prevent and restrain violations of this act, and by mandamus to compel obedience to its provisions,

and it shall be the duty of the prosecuting attorneys of the several counties, under the direction of the attorney general, to institute and prosecute proceedings in equity and also at law, in the name of the state of West Virginia, to enforce the provisions of this act. Two or more residents of any county in which any railroad mentioned in this act owns property or transacts business may institute and prosecute in their own names any suit in equity to prevent and restrain violations of, and any suit in equity, or by mandamus or otherwise at law, to compel obedience to the provisions of this act; and it shall not be necessary for them to show any special injury in any suit or proceedings. No suit when instituted shall be dismissed for want of parties, but any person or corporation may be made a party at any stage of the proceedings whenever it appears necessary to a proper decision of the suit.

(Senate Bill No. 34.)

CHAPTER 18.

AN ACT extending the times within which, and the terms upon which, railroad companies heretofore organized under the laws of this state since the first day of January, one thousand nine hundred and two, may commence the construction of their roads, if such construction has not already been commenced, and complete the same and put them in operation, whether heretofore begun or not.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 25, 1913.)

<p>Sec. 1. Extending franchise and powers of railroad companies.</p>	<p>Sec. 2. Inconsistent acts repealed.</p>
--	--

Be it enacted by the Legislature of West Virginia:

Sec. 1. Any railroad company heretofore organized under the laws of this state since the first day of January, one thousand nine hundred and two, which shall have heretofore spent, or which shall hereafter, and within two years from the passage of this act, actually and in good faith spend, upon the construction of its road, twenty per centum of its stock actually subscribed, and shall also within five years after the passage of this act complete and put in operation

its road, then and in every such case, the corporate existence, franchises and powers of such railroad company shall be and remain the same as though the provisions of section sixty-six of chapter seventeen of the acts of one thousand eight hundred and eighty-one had been fully complied with by such company, and no forfeiture or judgment of ouster shall be rendered against said company by reason of its failure to comply with said section. But if any of said railroad companies have not heretofore spent, or shall not within two years from the passage of this act, spend in good faith, upon the actual construction of its road twenty per centum of its subscribed capital, and shall not finish its railroad and put it in operation within five years from the passage of this act as aforesaid, its corporate existence and powers shall cease; except that if any such corporation shall have, within the time limited by this act, constructed a portion of its road and put the same, or some part thereof so completed, into actual operation, its corporate powers and rights shall be preserved as to all of the said road so completed and in operation.

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

(House Bill No. 19.)

CHAPTER 19.

AN ACT to amend and re-enact section fifteen of chapter seventy-seven of acts of one thousand nine hundred and seven, prohibiting discrimination and rebating, and to add thereto section fifteen-a, prohibiting misrepresentation and twisting; section fifteen-b, providing for securing evidence of rebating, misrepresentation and twisting; section fifteen-c, providing for appointment of insurance solicitors for companies other than life; section fifteen-d, giving the insurance commissioner authority to issue and revoke agents' licenses; section fifteen-e, providing for revocation of company's license; section fifteen-f, regulating reduction of capital stock by licensed companies; section fifteen-g, restricting powers of licensed companies in declaration of dividends to stockholders; section fifteen-h, providing for supervision of re-insurance contracts; section fifteen-i, providing for supervision of companies after withdrawal from the state; section fifteen-j, making provision for reserves for certain companies; section fifteen-k. pro-

viding penalties for violations of certain sections, and section fifteen-l, repealing inconsistent provisions.

(Passed February 6, 1913. In effect ninety days from passage. Approved by the Governor February 7, 1913.)

<p>SEC. 15. Life insurance companies doing business in this state shall not discriminate in favor of any individual of the same class. No insurance company shall pay or allow any rebate or any inducement which is not specified in the contract; penalties for violations; no person shall receive or accept any rebate, part of premium or commission; penalty for violation; insurance commissioner to investigate any charges of rebating; not to prohibit non-participating insurance from paying bonuses.</p> <p>15a. Misrepresentation and twisting; penalties for violation of provisions of this section.</p> <p>15b. Testimony; no person shall be excused from testifying.</p>	<p>SEC. 15c. Solicitors, to whom and how licenses may be issued to solicitors; fee for license; license may be revoked.</p> <p>15d. Agents' license, who can solicit applicants for policies; insurance commissioner's duty when agent violates insurance law.</p> <p>15e. Powers of the insurance commissioner to refuse or revoke licenses.</p> <p>15f. Reduction of capital stock.</p> <p>15g. Dividends not to be paid until.</p> <p>15h. Re-insurance; not to be done until.</p> <p>15i. Companies withdrawn: when subject to examination of West Virginia insurance department and its findings.</p> <p>15j. Reserves.</p> <p>15k. Penalties.</p> <p>15l. Repealing conflicting acts.</p>
---	---

Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter seventy-seven of the acts of one thousand nine hundred and seven, be amended and re-enacted so as to read as follows, and that there be added thereto sections fifteen-a, fifteen-b, fifteen-c, fifteen-d, fifteen-e, fifteen-f, fifteen-g, fifteen-h, fifteen-i, fifteen-j, fifteen-k and fifteen-l relating to subjects connected with the office of insurance commissioner, and the general subject of insurance.

Discrimination and Rebating Prohibited.

Sec. 15. No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals of the same class, or of equal expectation of life, in the amount of payment or return of premiums or rates charged for policies of insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes, nor shall any such company permit, or agent thereof offer or make any contract of insurance or agreement as to such contract other than as plainly expressed in the issued policy thereon; and no company authorized or permitted to do an insurance business within this state, or any officer, agent, solicitor or representative thereof shall make any contract for such insurance on property or risk located within the state or against liability, casualty, accident or hazard that may arise or occur thereon, or agreement as to such contract other

than as plainly expressed in the policy issued, or to be issued thereon; and no insurance company, association or society, by itself or any other party, and no insurance agent, solicitor or broker personally, or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy, or on any policy, or agent's commission thereon, earnings, profits, dividends, or other benefit founded, arising, accruing or to accrue thereon, or therefrom, or any other valuable consideration or inducement to or for insurance, on any risk in this state now or hereafter to be written, which is not specified in the policy contract of insurance; nor shall any such company, association, or society, agent, solicitor, or broker, personally or otherwise, offer, promise, give, sell or purchase any stocks, securities or property, or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance, or in connection therewith which is not specified in the policy. Upon satisfactory evidence of the violation of the provisions of this section, by any solicitor or agent of any insurance company, the insurance commissioner shall forthwith revoke the certificate of authority of such solicitor or agent, and no license shall be issued to such agent or solicitor within one year from the date of the revocation of such license; and any insurance company, association, or society, its officers, solicitors or agents, or any insurance broker violating the provisions of this section of this act, shall be guilty of a misdemeanor, and upon conviction thereof, the offender shall be sentenced to pay a fine of one hundred dollars for each and every violation, or, in the discretion of the court, imprisoned in the county jail of the county in which the offense is committed, for a period of not less than ninety days nor more than six months.

No insured person or party shall receive or accept, directly or indirectly, any rebate or premium or part thereof, or agent's, solicitor's or broker's commission thereon, payable on the policy, or on any policy of insurance or any favor or advantage or share in the dividend or other benefit to accrue thereon, or any valuable consideration or inducement, not specified in the policy contract of insurance. The amount of the insurance whereon the insured has received or accepted, either directly or indirectly, any rebate of the premium, or agent's, solicitor's or broker's commission thereon, shall be reduced in such proportion as the amount or value of such rebate, commission, dividend, or other consideration so received by the insured, bears to the first premium paid on such policy, and any person insured, in addition

to having the insurance reduced, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars.

It shall be the duty of the insurance commissioner to investigate any charges of rebating submitted to him. Said charges shall specify the agent, the company and the party receiving the rebate, and all facts in connection with the transaction within his knowledge.

Immediately upon the filing of said charges the insurance commissioner shall proceed to investigate the same. He shall have power to compel the attendance of witnesses and may examine under oath any person whom he has reason to believe has knowledge of the facts alleged, and the making of any false statements on such examination shall be perjury and punishable as a felony.

Nothing in this section shall be so construed as to prohibit any company issuing non-participating insurance from paying bonuses to policy-holders or otherwise abating their premium in whole or in part out of surplus accumulated from non-participating insurance, nor to prohibit any company transacting industrial insurance on the weekly or monthly payment plan from returning to policy-holders who have made premium payments for a period of at least one year directly to the company at its home or district office, a percentage of the premium which the company would have paid for the weekly or monthly collection of such premiums, nor to prohibit any life insurance company doing business in this state from issuing policies of life or endowment insurance with or without annuities at rates less than the usual rates of premiums for such policies, insuring members of organizations or employes of any employer, who through their secretary or employer may take out insurance in an aggregate of not less than fifty members and pay their premiums through such secretary or employer.

Misrepresentation and Twisting.

Sec. 15a. No insurance company, association or society, or any officer, director, agent, broker or solicitor thereof shall issue, circulate or use or cause or permit to be issued, circulated or used, any written or oral statement, or circular misrepresenting the terms of any policy issued or to be issued by such company, or misrepresenting the benefit or privileges promised under any such policy, or estimating the future dividends payable under any such policy. No insurance company, association or society, officer, director, agent, solicitor or broker, or any person, firm, association or corporation shall make any misrepresentation or incomplete comparison of policies, oral,

written or otherwise, to any person insured in any company for the purpose of inducing or tending to induce such person to take out a policy of insurance, or for the purpose of inducing or tending to induce a policy holder in any company to lapse, forfeit, or surrender his insurance therein, and to take out a policy of insurance in another like company.

Upon satisfactory evidence of the violation of the provisions of this section, by any insurance company, association or society, its officers, solicitors or agents, or any insurance broker, the insurance commissioner shall forthwith revoke the certificate of authority of such offending company, association or society, its officers, solicitors or agents or any insurance broker, and no license shall be issued to such company, association or society, officers, agents, solicitors or brokers, within one year from the date of the revocation of such license; *provided, however*, that the violation of this law by an agent, solicitor or broker shall not be considered a violation by the company that such agent, solicitor or broker represents. Any insurance company, association or society, agent, solicitor or broker, or any person, firm, association or corporation violating the provisions of this section of this act shall be guilty of a misdemeanor and upon conviction thereof, the offender or offenders shall be sentenced to pay a fine of one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed.

Testimony.

Sec. 15b. No person shall be excused from testifying or from producing any books, papers, contracts, agreements or documents at the trial or hearing of any person or company, association or society, charged with violating any provision of sections fifteen and fifteen-a of this act, on the ground that such testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Solicitors.

Sec. 15c. Any local insurance agent for companies other than life, licensed by the insurance commissioner to represent one or more insurance companies, may, with the approval of the companies represented, apply to the insurance commissioner upon forms provided by him, for license for such solicitors as such local agent may desire to employ, and the insurance commissioner shall not issue such solicitor's

license to any person whom he finds is not trustworthy or competent to transact the business for license to do which application is made; and which license shall be subject to the same laws in regard to expiration and renewal as the agent's license; *provided, however*, that no local agent shall appoint more than two solicitors. The fee for a solicitor's license shall be one dollar.

A solicitor's license may, at any time, be revoked at the request of the employing local agent and revocation shall automatically become effective upon the cancellation or expiration of the license of the employing local agent. "Solicitor" is hereby defined to be a person duly appointed, authorized and employed by duly commissioned local agent to solicit and receive applications for insurance for such agent and to collect premiums for him.

In no case shall a solicitor's license be requested when the principal use of such license is to effect insurance upon the property, person or liability of such person, or to circumvent the enforcement of the anti-rebate laws.

Agents' Licenses.

Sec. 15d. No person shall act in the solicitation or procurement of applicants for, or policies of, insurance for any company referred to in this chapter except as solicitor under section fifteen-c of this law, without first procuring a certificate of authority as agent from the insurance commissioner, which certificate shall be renewable on the first day of March in each year; and said insurance commissioner shall not issue such certificate of authority to any person whom he finds is not trustworthy and competent to transact the business for authority to do which application is made; and on conviction of any person acting as such agent, of the violation of any provision of this law, the insurance commissioner shall forthwith revoke the certificate of authority issued to him, and no certificate shall be thereafter issued to such convicted person, until one year from the date of conviction.

Whenever the insurance commissioner upon investigation is satisfied that any agent acting under his supervision and holding a certificate of authority from him is violating or has violated the insurance laws of West Virginia, or that he is incompetent or untrustworthy, or whenever he shall proceed to revoke a certificate or license of such agent under any section of this law, he shall first notify such agent of his findings, and state in writing the complaint against him and require such person on a date named, which date shall not be less than

thirty days after service of notice, to show cause why his license should not be revoked.

If on the date named in said notice the said agent does not present good and sufficient reasons why his authority to transact business in this state should not be revoked, the said commissioner may revoke such person's certificate of authority. All decisions and findings of the insurance commissioner made under the provisions of this section shall be reviewable by proper proceedings in any court of competent jurisdiction within this state; *provided, however*, that nothing contained in this section shall be taken or construed as preventing any such agent from doing business under the authority of such certificate during the pendency of any proceeding taken to review an adverse decision of the insurance commissioner.

Powers of the Insurance Commissioner to Refuse or Revoke Licenses.

Sec. 15c. The insurance commissioner may refuse to issue a certificate of authority to any domestic or foreign company if, in his judgment, such refusal will best promote the interests of the people of this state.

When the insurance commissioner upon investigation is satisfied that any company acting under his supervision and holding a certificate of authority from him is insolvent, or has failed to comply with or is violating the insurance laws of West Virginia, or is conducting business fraudulently, or is not carrying out its contracts in good faith, or whenever he shall proceed to revoke such certificate or license under any section of this law, he shall first notify any such company of his findings, and state in writing the complaint against it, and require the company on a date named, which date shall be not less than thirty days after service of notice, to show cause why its license should not be revoked. If on the date named in said notice the matter complained of has not been corrected to the satisfaction of the insurance commissioner, or the company does not present good and sufficient reasons why its authority to transact business in this state should not be revoked, he may revoke the authority of the company to continue business in this state. All decisions and findings of the insurance commissioner made under the provisions of this section shall be reviewable by proper proceedings in any court of competent jurisdiction within this state; *provided, however*, that nothing contained in this section shall be taken or construed as preventing any such company from continuing in good faith all contracts made in this state during the time such company was legally authorized to transact

business herein, or as preventing such company from doing business during the pendency of any proceeding taken to review an adverse decision of the insurance commissioner. *Provided, however,* that notice of such appeal is served on said commissioner within ten days after such adverse decision and that proceedings to appeal are taken within twenty days after the service of said notice.

Reduction of Capital Stock.

Sec. 15f. No company licensed by the insurance commissioner shall reduce its capital stock until such action is approved by the insurance commissioner.

Dividends.

Sec. 15g. No company licensed by the insurance commissioner shall declare or pay dividends to stockholders until approved by the insurance commissioner, if by the payment of such dividend the net surplus of such company would thereby be reduced to an amount less than one-eighth of its capital stock.

Re-Insurance.

Sec. 15h. No company licensed by the insurance commissioner shall transfer or re-insure, directly or indirectly, substantially all of its West Virginia risks or contracts until a certified copy of the agreement or contract by which such transfer or re-insurance is to be effected, has been filed with and approved by the insurance commissioner.

Companies Withdrawn.

Sec. 15i. Any company now licensed or which may hereafter be licensed by the insurance commissioner to do business in West Virginia, shall, so long as it retains any West Virginia business on its books, be subject to the examination of the West Virginia insurance department, and the auditor shall remain its attorney in fact for service of process for any action growing out of contracts or policies made by such company while licensed in this state. If upon examination as provided in this section, it shall be determined that the capital stock of any such company is impaired, it shall be given one month to make good such impairment and upon failure to comply with this requirement to the satisfaction of the insurance commissioner, it shall immediately re-insure its West Virginia business under the conditions provided in section fifteen-h.

Reserves.

Sec. 15j. The insurance commissioner may require the same standards for reserves for companies other than life and fire licensed

to do business in this state, as are required by any of the states in which companies of the same class do business; *provided*, that in no case shall the reserve be less than that required by the laws of this state.

Penalties.

Sec. 15k. Every company violating any provision of sections fifteen-f, fifteen-g, fifteen-h or fifteen-i of this act shall, upon conviction, be fined not more than ten thousand dollars and not less than one thousand dollars.

Sec. 15l. Section sixteen of chapter seventy-seven of the acts of one thousand nine hundred and seven, and all acts or parts of acts inconsistent with this act are hereby repealed.

(House Bill No. 275.)

CHAPTER 20.

AN ACT providing for the supervision of rate making associations.

(Passed February 18, 1913. In effect ninety days from passage. Approved by the Governor February 21, 1913.)

SEC.

1. Rate makers required to file with insurance commissioner a copy of agreement, etc.; subject to visitation; examiners may be appointed; schedule of rates to be filed when; shall not make discriminating rates; insurance commissioner may remove

SEC.

rates, when; record to be kept; this section not applicable to.
 2. Penalty for failure to comply with provisions of this act.
 3. Appropriation to carry out provisions of act.
 4. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Every corporation, association or bureau which now exists or hereafter may be formed, and every person who maintains or hereafter may maintain a bureau or office, for the purpose of suggesting, approving or making rates to be used by more than one underwriter for insurance, or property or risks of any kind located in this state, shall file with the insurance commissioner a copy of the articles of agreement, association or incorporation, and the by-laws and all amendments thereto under which such person, association or bureau operates or proposes to operate together with his or its business address and a list of the members or insurance corporations represented or to be represented by him or it, as well as

such other information concerning such rating organization and its operations as may be required by the insurance commissioner.

Every such person, corporation, association or bureau whether before or after the filing of the information specified in the last preceding paragraph, shall be subject to the visitation, supervision and examination of the insurance commissioner, who shall cause to be made an examination thereof, as often as he deems it expedient, and at least once in three years. For such purpose he may appoint as examiners one or more competent persons and upon such examination he, his deputy or any examiner authorized by him, shall have the power to examine under oath the officers or agents, and all persons deemed to have material information regarding the business of, or manner of, operation by every such person, corporation, association, bureau or board. The insurance commissioner shall make public the result of such examination, and shall report to the legislature in his annual report on the methods of such rating organization and the manner of its operation.

Every such person, corporation, association or bureau shall file with the insurance commissioner, whenever he may call therefor, any and every schedule of rates or such other information concerning such rates as may be suggested, approved or made by any such rating organization for the purposes specified in the first paragraph of this section. No such person, corporation, association or bureau shall fix or make any rate or schedule of rates which is to or may apply to any risk within this state, on the condition that the whole amount of insurance on such risk or any specified part thereof, shall be placed at such rates, or with the members of, or subscribers to, such rating organization; nor shall any such person, corporation, association or bureau, or any person, association or corporation authorized to transact the business of insurance within this state, fix or make any rate or schedule of rates or charge a rate which discriminates unfairly between risks within this state of essentially the same hazard; or, if such rate be a fire insurance rate, which discriminates unfairly between risks in the application of like charges or credits, or which discriminates unfairly between risks of essentially the same hazard and having substantially the same degree of protection against fire. Whenever it is made to appear to the satisfaction of the insurance commissioner that such discrimination exists, he may, after a full hearing either before himself or before any salaried employe of the insurance department, whose report he may adopt, order such discrimination removed, and all such persons, corporations, associations

or bureaus affected thereby, shall immediately comply therewith; nor shall such persons, corporations, associations or bureaus remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it is made to appear to the satisfaction of the insurance commissioner that such increase is justifiable.

Every such rating organization shall keep a careful record of its proceedings and shall furnish upon demand to any person upon whose property or risk a rate has been made, or to his authorized agent, full information as to such rate, and, if such property or risk be rated by schedule, a copy of such schedule; it shall also provide such means as may be approved by the insurance commissioner, whereby any person or persons affected by such rate or rates may be heard, either in person or by agent, before the governing or rating committee or other proper executive of such rating organization on an application for a change in such rate or rates.

This section shall not apply to any contract of life insurance, nor to any contract of insurance upon or in connection with marine or transportation risks or hazards, other than contracts for automobile insurance, nor to contracts made by persons, partnerships, associations, or corporations authorized to do the business of guaranty and surety insurances, life or casualty insurance, upon the co-operative or assessment plan; co-operative fire insurance, inter-insurance, or fraternal benefit insurance, but it shall apply to all other forms of insurance.

Sec. 2. Every corporation, association, bureau or person failing to comply with any of the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction be fined not less than one hundred dollars nor more than five hundred dollars for each offense.

Sec. 3. There is hereby appropriated from the state treasury from any funds not otherwise appropriated, for the fiscal year one thousand nine hundred and thirteen, the sum of two thousand dollars, or such part thereof as may be necessary to carry out the provisions of this act, and there is hereby appropriated from the state treasury, from any funds not otherwise appropriated for the fiscal year one thousand nine hundred and fourteen, the sum of four thousand dollars, or such part thereof as may be necessary to carry out the provisions of this act.

Sec. 4. All acts or parts of acts inconsistent with this act are hereby repealed.

(Senate Bill No. 142.)

CHAPTER 21.

AN ACT to amend and re-enact sections seventy-eight, seventy-nine, eighty and eighty-one of chapter seventy-nine, acts of the legislature of one thousand nine hundred and seven, and to add thereto sections seventy-eight-a-I, seventy-eight-a-II, seventy-eight-a-III, seventy-eight-a-IV, seventy-eight-a-V, seventy-eight-a-VI, seventy-eight-a-VII, seventy-eight-a-VIII, seventy-nine-a-I, seventy-nine-a-II, seventy-nine-a-III, seventy-nine-a-IV, seventy-nine-a-V, seventy-nine-a-VI, eighty-a-I, eighty-a-II, eighty-one-a-I, eighty-one-a-II, eighty-one-a-III, eighty-one-a-IV, eighty-one-a-V, eighty-one-a-VI, eighty-one-a-VII, eighty-one-a-VIII, eighty-one-a-IX, eighty-one-a-X, eighty-one-a-XI, eighty-one-a-XII, eighty-one-a-XIII, eighty-one-a-XIV, eighty-one-a-XV, eighty-one-a-XVI, eighty-one-a-XVII, eighty-one-a-XVIII, eighty-one-a-XIX, eighty-one-a-XX, relating to banks and banking institutions.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 25, 1913.)

Sec.	Sec.
78. Banks; powers; use of term "banks," "banking company" or "trust company," without charter is unlawful; real estate may be held for purposes named; violations of provisions; penalties.	80. Reserve.
78-a-I. Increase or reduction of stock.	80-a-I. Bank shall not go into voluntary liquidation without first giving notice to banking commissioner.
78-a-II. Payment of capital stock.	80-a-II. Bonds of officers.
78-a-III. Personal liability of stockholders.	80-a-III. Bank supervision.
78-a-IV. Directors; their qualification and oath; stockholders shall appoint examining committee.	81-a-I. Appointment of commissioner.
78-a-V. What associations shall be subject to the provisions of this chapter.	81-a-II. Duties of commissioner.
78-a-VI. Every association shall file a certified copy of its charter, and receive certificates before doing business; penalty for violation; building and loan associations shall file statements; penalty for false statements.	81-a-III. Office and records of commissioner.
78-a-VII. Commissioner of banking shall examine books and affairs of associations.	81-a-IV. Examinations.
78-a-VIII. Unlawful for foreign associations to transact business in this state without certificate; how to secure certificate.	81-a-V. Duties of officials of banks and other institutions.
79. Stocks not to be used as security for loans.	81-a-VI. Banks and other institutions improperly conducted.
79-a-I. Limit of loans.	81-a-VII. Insolvent banks or other institutions.
79-a-II. Provision concerning dividends.	81-a-VIII. Insolvent banks receiving deposits.
79-a-III. Capital not to be impaired.	81-a-IX. Call statements.
79-a-IV. Enforcement of assessment.	81-a-X. Certificate of authority.
79-a-V. List of stockholders to be exhibited.	81-a-XI. Collection of capital stock.
79-a-VI. Definition of bank or banking company.	81-a-XII. Compensation of commissioner.
	81-a-XIII. Commissioner's report.
	81-a-XIV. Verification of report.
	81-a-XV. Other institutions subject to this act.
	81-a-XVI. Bonds of state's depositories.
	81-a-XVII. Penalty for embezzlement, deceit or false statements.
	81-a-XVIII. Penalty for officer, clerk or others certifying check falsely.
	81-a-XIX. Unlawful to issue certificate of deposit for purpose of borrowing money.
	81-a-XX. Penalty; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections seventy-eight, seventy-nine, eighty and eighty-one of chapter seventy-nine, acts of the legislature of one thousand nine hundred and seven, be and they are hereby amended and re-enacted to read as follows, and that sections seventy-eight-a-I, seventy-eight-a-II, seventy-eight-a-III, seventy-eight-a-IV, seventy-eight-a-V, seventy-eight-a-VI, seventy-eight-a-VII, seventy-eight-a-VIII, seventy-nine-a-I, seventy-nine-a-II, seventy-nine-a-III, seventy-nine-a-IV, seventy-nine-a-V, seventy-nine-a-VI, eighty-a-I, eighty-a-II, eighty-one-a-I, eighty-one-a-II, eighty-one-a-III, eighty-one-a-IV, eighty-one-a-V, eighty-one-a-VI, eighty-one-a-VII, eighty-one-a-VIII, eighty-one-a-IX, eighty-one-a-X, eighty-one-a-XI, eighty-one-a-XII, eighty-one-a-XIII, eighty-one-a-XIV, eighty-one-a-XV, eighty-one-a-XVI, eighty-one-a-XVII, eighty-one-a-XVIII, eighty-one-a-XIX and eighty-one-a-XX be added thereto, relating to banks and banking institutions, as follows:

Powers.

Sec. 78. Every such bank may exercise, under the laws of this state, all such incidental powers as may be necessary to carry on the business of banking, by discounting promissory notes, negotiating drafts, bills of exchange and other evidences of indebtedness, receiving deposits, buying and selling exchange, bank notes, bullion or coin, and by loaning money on personal or other security. It shall be unlawful for any individual or association of individuals doing business in this state to use in connection with such business the term "bank," "banker," "banking company," or "trust company," or receive deposits, or sell foreign exchange, until they shall have taken out a charter and complied with the statutes governing banks and trust companies. Hereafter no charter shall be issued to any bank to do business in this state until the application therefor has been approved in writing by the commissioner of banking; and no real estate shall be carried upon the books of any bank at a value greater than the assessed value as shown by the land books of the county wherein such real estate is assessed. No bank shall hold or convey real estate except for the following purposes:

First: Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second: Such as shall be mortgaged to it in good faith by way of security for debts contracted.

Third: Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth: Such as it shall purchase at sales under judgments, decrees, deeds of trust or mortgages held by the association, or shall purchase to secure debts due to it, which it shall dispose of at the earliest practicable date.

Any person 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, or be confined in the county jail for a period not exceeding six months, or both, at the discretion of the court, for each and every offense.

Increase or Reduction of Stock.

Sec. 78-a-I. Any banking company heretofore formed or which may be hereafter formed under the provisions of this chapter, at any general, adjourned or special meeting of the stockholders thereof, may by resolution make such increase or reduction of the capital stock thereof as may be decided upon by said stockholders, a majority of the stock of such company being represented at such meeting by the holders thereof, and such holders being present in person, or by proxy, and voting for such increase or reduction; *provided*, that no increase or reduction shall conflict with the limitation prescribed in section seventy-seven of this chapter, and that a notice over the signature of the president of said banking company, of the intention to offer such resolution, shall be sent through the United States mail to each stockholder ten days previous to such meeting; or that notice of such intention be given by advertisement published once a week for two successive weeks in some newspaper of general circulation in this state; or for ten days in some daily paper of like circulation printed in this state. When such increase or reduction shall have been made by any banking company, the president thereof shall, under his signature and the seal of such bank, certify the resolution increasing or reducing the capital stock, to the secretary of state; and the secretary of state, under his hand and the great seal of the state, shall issue to such bank a certificate reciting such resolution and declaring such increase or reduction to be authorized by law, and such certificate shall be *prima facie* evidence of such increase or reduction and of the authority to make the same in all courts of law.

Payment of Capital Stock.

Sec. 78-a-II. At least fifty per centum of the capital stock of every banking institution, organized under the provisions of this chap-

ter, shall be paid in before it shall be authorized to transact any business, except such business as is incidental and necessarily preliminary to its organization. And the remaining fifty per centum of the capital stock shall be paid in full within the next succeeding ten months in monthly installments of at least ten per centum of the remaining fifty per centum of said capital stock. And in no case shall a bank or banking institution commence public business until it shall have received the certificate of authority from the commissioner of banking, as provided in section eighty-one-a-IX of this chapter.

Personal Liability of Stockholders.

Sec. 78-a-III. The stockholders of every bank heretofore organized or that may hereafter be organized, under the provisions of this chapter, shall be personally liable to the creditors thereof over and above the amount of stock held by them respectively to an amount equal to their respective shares so held for all liabilities accruing while they are such stockholders.

Directors—Their Qualifications and Oath.

Sec. 78-a-IV. For every bank subject to the provisions of this chapter, there shall be a board of directors who shall have power to do, or cause to be done, all things that are proper to be done by the bank. Every director must own in his own right at least five shares of the capital stock of the bank of which he is a director, and before entering on his duties as such director he shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank, and that he will not knowingly and willingly permit to be violated any of the provisions of the laws of this state relative to banking, and that the stock standing in his name upon the books of the bank is not hypothecated in any way to or pledged as security for loans obtained from or debts owing to the bank in which he is a director, and that the five shares necessary to qualify a stockholder as a director shall not be in anywise hypothecated, which oath, subscribed by himself and certified by the officer before whom it was taken, shall be filed and carefully preserved in the office of the commissioner of banking. Should a director at any time after his qualification as such, sell or dispose of, or in any way or manner hypothecate or pledge as security for loans obtained or debts owing, the said five shares, or any part thereof, necessary for his qualification, then his office as director shall immediately become vacant, and

the remaining directors shall declare his office vacant and proceed to fill such vacancy forthwith.

The stockholders of each bank shall annually appoint an examining committee, whose duty it shall be to examine the condition of the bank at least once every six months. The examining committee shall report to the board of directors giving in detail all items included in the assets of the bank, which they have reason to believe are not of the value at which they appear on the books and records of the bank, and giving the value of each of such items as in their judgment they may have determined. The board shall cause said report to be recorded in the minute books of the bank, and a duly authenticated copy thereof transmitted to the commissioner of banking. Should the stockholders fail to appoint such committee, or should such committee fail to promptly make its report, then the commissioner of banking shall have the power, at his option, to appoint a committee to make such examination, and report.

Sec. 78-a-V. It is further expressly provided that all savings banks, co-operative banking associations and trust companies engaged in a general banking business shall be subject to the provisions of this chapter, but nothing herein contained shall be construed to authorize any trust company to do business in this state with capital of less than one hundred thousand dollars, paid up and unimpaired, as provided by section six of chapter seven of the acts of one thousand nine hundred and three; and that all building and loan associations and mutual investment associations doing business in this state shall be subject to state supervision as follows:

Sec. 78-a-VI. 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 find 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 purpose 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 of the charter, constitution or by-laws of any such association become operative until a copy of the same shall have been filed, and a certificate of authority obtained, as above provided in regard to original charter, constitution and by-laws. Any such bank, association or trust company 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 in addition thereto the officer or officers of such association 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, in the discretion of the court, 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 of banking 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 out 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 wilfully or knowingly subscribe or make, or cause to be made, any false statements or any false entries in any books of any association, last above mentioned, or exhibit false papers with the intent to deceive any person authorized 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 a felony and upon conviction thereof shall be fined not exceeding ten thousand dollars, and, in the discretion of the court, be imprisoned in the state penitentiary not less than one nor more than five years.

Sec. 78-a-VII. At least twice 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 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 that 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 in section eighty-one-a-VII of this act.

Sec. 78-a-VIII. It shall be unlawful 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 affairs 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. It 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, *mesne* or final, upon such attorney 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 statement, and certified copy 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 col-

lect a sum of twenty-five dollars and pay 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 that 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 offense.

Stocks Not to be Used as Security for Loans.

Sec. 79. No bank shall make any loan or discount on the security of the shares of its own capital stock nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and all stock purchased or acquired in such manner shall, within six months from the time of purchase, be sold or disposed of at public or private sale.

Limit on Loans.

Sec. 79-a-I. The total liabilities to any bank or trust company of any person, or of any company, corporation or firm, for money borrowed, including the liabilities of the company or firm, the liabilities of the several members thereof, shall at no time exceed twenty per centum of the capital stock, plus the surplus fund and undivided profits. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed. The corporation mentioned in this section shall not be construed to mean municipal corporations, districts or counties.

Provisions Concerning Dividends.

Sec. 79-a-II. The directors of any bank may annually, semi-annually or quarterly, declare dividends, but such bank shall, before the declaration of any dividend, carry one-tenth part of the net profit accrued to its surplus fund until the same shall amount to twenty per centum of its capital stock. No dividend shall be declared except from earnings remaining after deducting all losses, all sums due for expenses, and all over-due debts upon which no interest has been paid for a period of six months, unless the same are well secured and in process of collection. Any director voting for any dividend in violation of the provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than

five hundred dollars, and in the discretion of the court, confined in jail not less than thirty days.

Capital Not to be Impaired.

Sec. 79-a-III. No bank, or any of the officers or directors thereof, shall during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital stock. Whenever the capital stock of a bank has become impaired, by losses or otherwise, it shall be the duty of the board of directors to restore the same within three months by an assessment *pro rata* on the stockholders, on the amount of the capital stock held by each. But nothing in this section shall prevent the reduction of the capital stock of the bank, as provided in section seventy-eight-a-I of this chapter.

Enforcement of Assessment.

Sec. 79-a-IV. If any stockholder or stockholders of a bank shall neglect or refuse after three months' notice, to pay the assessment as provided in the next preceding section or in section seventy-eight-a-II of this act, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such stockholder or stockholders to be sold at public auction, after thirty days' notice shall have been given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto, to liquidate the deficiency, and the residue of the proceeds of said sale, if any, shall be paid to the delinquent stockholder or stockholders. A failure by the board of directors to make the assessment provided for in section seventy-nine-a-III to cure an impairment of capital stock, or failure to carry out the provisions of this section, shall make the members of the board of directors subject to the penalties prescribed in section eighty-one-a-VIII of this act.

List of Stockholders to be Exhibited.

Sec. 79-a-V. The president and the cashier of every bank or association shall cause to be kept at all times a full and correct list of the names and residences of all the stockholders in the bank or association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the stockholders and creditors of the bank or association and the officers authorized to assess taxes under state authority, during business hours of each day in which business may be legally transacted. A

copy of such list on the first Monday of July of each year, verified by the oath of such president and cashier, shall be transmitted to the commissioner of banking.

Definition of Bank or Banking Company.

Sec. 79-a-VI. The words "bank" or "banking company" in this act shall be taken and construed to include any bank, banker, banking company or trust company.

Reserve.

Sec. 80. All banks operating under the provisions of this chapter shall at all times maintain on hand as a reserve in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate of all its deposits which are subject to withdrawal on demand; and whenever said reserve of any such bank shall fall below said per centum of such deposits it shall not increase its liabilities by making any new loans until the required proportion between the aggregate amount of such deposits and its reserve fund shall be restored; *provided*, that in lieu of lawful money on hand, three-fifths of said fifteen per centum may consist of balances payable on demand due from any national or state bank doing business in this state, or any solvent banking institutions outside of this state, that may be approved by the supervisor in said state.

Sec. 80-a-I. No bank or other institution subject to examination by the commissioner of banking shall go into voluntary liquidation or change to a national banking association without first giving to the commissioner of banking thirty days' notice of its intention to do so; and any person, officer or stockholder of any bank violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars.

Bonds of Officers.

Sec. 80-a-II. The board of directors shall require the cashier, and other accounting officers of the bank, to take an oath and execute bonds for the faithful discharge of their duties, the penalty of such bonds to be commensurate with the responsibility attached to the position.

Bank Supervision.

Sec. 81. The commissioner of banking shall have jurisdiction and control, as hereinafter provided, over all banks chartered by and operated in this state, and all other institutions mentioned in this act.

Appointment of Commissioner.

Sec. 81-a-I. On or before the first day of April, one thousand nine hundred and fifteen, or as soon thereafter as possible, and every four years thereafter the governor of this state shall designate and appoint some competent person commissioner of banking, who is a citizen of this state, and who shall be experienced and skilled in the science of book-keeping and banking, and who shall have had at least two years' experience as a cashier or an assistant cashier of a bank, or shall have served at least two years as assistant commissioner of banking, bank examiner or as an accounting officer of the state, and who is neither directly nor indirectly interested in any bank or corporation subject to his supervision, who shall examine into and report, as hereinafter provided, upon the affairs of all banks and other institutions specified in this act, doing business in this state, except those that are organized and carrying on business under the banking acts of the national government. The commissioner of banking may designate and appoint three assistant commissioners of banking, who shall have the same qualifications as the commissioner and who shall assist the commissioner of banking, and under his directions and authority may perform any or all of the duties, and exercise any or all of the powers by this act required of, or vested in, the commissioner of banking, and who may be removed by the commissioner of banking. The assistant commissioners of banking shall take the oath as is hereinafter required of the commissioner of banking.

Duties of Commissioner.

Sec. 81-a-II. The commissioner of banking shall hold his office for a term of four years unless sooner removed by the governor, or until his successor is appointed and qualified, and before entering upon the discharge of his duty, he shall take and subscribe, before some person competent to administer the same, an oath to support the constitution of the United States, and the constitution of the state of West Virginia, and to faithfully and honestly examine into the affairs of all the banks and other institutions subject to supervision under this chapter, incorporated by and doing business in this state, and to perform all of the duties prescribed for such services under this act; and said oath shall be filed and preserved in the office of the secretary of state.

Office and Records of Commissioner.

Sec. 81-a-III. Said commissioner of banking shall maintain an

office in the state capital. In such office he shall prepare and keep a complete record of the financial condition of all the banks and other institutions subject to his supervision, as may appear in his reports.

Examinations.

Sec. 81-a-IV. At least twice in each twelve months the said commissioner, or an assistant commissioner, shall personally make a thorough and complete examination of the condition and affairs of each of said banks and other institutions subject to his supervision. He shall ascertain whether the officers and directors thereof have properly taken the oath prescribed by law as such, and whether or not the said officers have executed proper and legal bonds in sufficient amount and with ample security. He shall examine and ascertain whether the books of said institutions are properly kept, and he shall ascertain carefully and fully the assets and liabilities of each and all of said banks and other institutions, and whether such assets are solvent and good or otherwise, and whether all the laws of this state pertaining to banks and banking are carefully observed.

The commissioner of banking or his assistant shall examine each and every bank in the hands of a receiver at least once in each six months, until its affairs shall be wound up, and shall file a copy of each of said examinations with the clerk of the circuit court in the county where such bank is located. Receivers of all insolvent banks shall make reports to the commissioner of banking in the same manner as required of other banks, and shall cause statements to be published in like manner. Any receiver of an insolvent bank who shall fail to comply with the provisions of this section, or who shall neglect or refuse to submit the affairs of such bank to an examination by the commissioner of banking or his assistant, or who shall violate any of the provisions of this act relating to the examination of banks, shall be subject to the same penalties provided for officers or employes of banks.

Duties of Officials of Banks and Other Institutions.

Sec. 81-a-V. For the purpose of making said examinations, as above required, the officers of said banks, and other institutions, shall, upon his demand, furnish and give full access to said commissioner for such examination, all the books, papers, notes, bills and other evidences of debts due said bank or other institution, and shall disclose fully and truly all the institution's indebtedness and liability, and shall furnish him with all necessary clerical aid and assistance. And said commissioner shall have a right to administer to and examine under oath any and all of said bank officers touching any matter or

things pertaining to said examination, and the affairs and conditions of said institution. Any officer failing or refusing to furnish said commissioner with any such papers or information, or who shall fail to do or perform any of the other duties or requirements of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, and may at the discretion of the court, be imprisoned in the county jail not less than three months nor more than one year. And it shall be the duty of said commissioner to report at once to the prosecuting attorney of the county in which the bank is situated, any such violation on the part of any such bank officer.

Banks and Other Institutions Improperly Conducted.

Sec. 81-a-VI. If upon making his examination of any bank, or other institution, the commissioner should discover that the banking laws of the state are not being fully observed, or that any irregularities are being practiced, he shall at once call the attention of the officers and directors of the bank or other institution to the fact and demand that the same be promptly corrected; it shall also be his duty to demand a sworn statement from the officers of said bank or other institutions, covering all the points of controversy, to be mailed to him at his office once every thirty days (not for publication but for his own information and guidance), until he is satisfied that the irregularities have been corrected; said examination to be paid for by the bank or other institution the same as regular examinations. The said commissioner shall also have authority to call for special reports and make special examinations of any bank or other institution which he may have good reason for believing is not properly conducted. If any examination made by the commissioner, under the provisions of this section, discloses assets the validity of which, in the judgment of the commissioner, is questionable, or shall disclose over-due assets, the commissioner shall order that such questionable assets be charged off the books of the bank as part of the assets thereof within a period of three months from the giving of notice by the commissioner to such bank, and legal proceedings for the collection of such over-due assets be forthwith instituted.

Insolvent Banks or Other Institutions.

Sec. 81-a-VII. If any such institution shall neglect or refuse for a period of sixty days to make special reports to the commissioner, as he may demand, or shall fail, neglect or refuse to comply with the pro-

visions of the next preceding section, or if at any time the commissioner shall find a bank or other institution subject to his supervision in an insolvent condition, or if such institution shall neglect or refuse to correct any irregularities or violation of this act which he may call to the attention of the president, cashier or board of directors, he shall have authority to take charge of such institution and shall report at once such insolvency, irregularity, or violation to the governor, and shall have the power, with the consent of the governor, to appoint a competent person as receiver of such institution; such receiver, under the direction of the commissioner of banking, shall take possession of the books, moneys, records and assets of every description of such institution, and collect all debts, dues and claims belonging to it, and upon the order of a court of competent jurisdiction, or the commissioner of banking, may sell or compound all bad or doubtful debts, and on like orders may sell all its real and personal property on such terms as the court or commissioner of banking may direct, and if necessary to pay its debts, the commissioner of banking may enforce the individual liabilities of its stockholders. A suit for such purpose may be instituted against resident stockholders, either in the name of such receiver or the commissioner of banking, in the circuit court of the county in which its banking house or office is located, and as to non-resident stockholders the suit may be brought in any county of any state where such stockholder resides or where service of process may be had on such stockholders; *provided, however*, that before any such receiver shall take charge of any moneys or assets of any such institution he shall give bond in such penalty as the governor shall prescribe, with sureties to be approved by the governor, conditioned for the faithful discharge of his duties as such receiver and the paying over as required by law or directed by order of court, or the commissioner of banking, of all moneys and assets which shall come into his hands as such receiver; such bond shall be made payable to the state of West Virginia, and shall be filed in the office of the commissioner of banking, and suits or actions thereon may be brought by any person injured by reason of any breach of its condition, but all suits and actions against such receiver shall be brought in the state and county where the banking house is located. The commissioner of banking shall have concurrent jurisdiction with the circuit court of the county in which the bank is situated to appoint a receiver for any bank for any of the causes specified in this or in the next preceding section, but no receiver shall be appointed by any such court unless the commissioner of banking neglects, fails or refuses to act. All expenses on

account of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof by and on order of the commissioner of banking; and such receiver may, upon the order of the commissioner of banking, make a ratable dividend of the money in his hands on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and as the proceeds of the assets of such association are paid to the receiver, he shall on like order, make further dividends on all claims previously proved or adjudicated, and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held. This section of this act shall have a retroactive effect.

Insolvent Banks Receiving Deposits.

Sec. 81-a-VIII. No bank shall accept or receive on deposit, with or without interest, any money, bank bills or notes, or United States treasury notes, gold or silver certificates, or currency, or other notes, bills, checks or drafts, when such bank is insolvent, and any officer, director, cashier, manager, member, employe or stockholder of any bank, who shall knowingly violate the provisions of this section or be accessory to or permit or connive at the receiving or accepting on deposit of any such deposits, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in a sum not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than sixty days nor more than one year, or by both such fine and imprisonment.

For the purpose of this section only, a bank shall be deemed insolvent when the available solvent assets, under its control and not hypothecated, are not of sufficient value to pay off and discharge all of its liabilities, except that for capital stock.

Call Statements.

Sec. 81-a-IX. Every bank operating under the provisions of this chapter shall make to the commissioner of banking not less than four reports each year, corresponding as to time as nearly as possible to the calls made by the comptroller of the currency on the national banks, according to the form that may be prescribed by him, verified by the oath or affirmation of the president or cashier of said bank, and attested by the signatures of at least three of the directors. Each report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the bank at the close of business on any past day by

him specified, and shall be transmitted to the aforesaid commissioner within five days after the receipt of a request or requisition therefor from him; and in the same form in which it is made to the commissioner, shall be published in a newspaper published in the place where the bank is situated or if there be no newspaper in the place, then in one published nearest thereto in the same county, at the expense of the bank, and such proof of publication shall be furnished as may be required by said commissioner.

Certificate of Authority.

Sec. 81-a-X. When any bank authorized by this chapter desires to begin business, it must notify the commissioner of banking, who shall at his earliest convenience make a personal examination of its affairs, and shall ascertain whether fifty per centum of its capital stock has, in good faith, been actually paid in, and whether all the other provisions required to be complied with, before commencing the business of banking, have been carefully observed. Having satisfied himself that all the conditions precedent have in good faith been complied with, the said commissioner shall then issue to such bank, under his hand and official seal, a certificate of authority reciting that such examination has been made and that the bank is authorized to commence business; which certificate shall be conspicuously displayed in the principal business room of the bank. But the commissioner may withhold from any association his certificate authorizing the commencement of business whenever he has reason to suppose that the stockholders have formed the same for any other than the legitimate objects contemplated in this act. The president, cashier and directors, of any bank that shall receive deposits before the certificate of authority contemplated in this section has been issued, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred dollars and, at the discretion of the court, imprisoned in the county jail not less than three months nor more than six months.

Collection of Capital Stock.

Sec. 81-a-XI. All banks which have not collected the full amount of their capital stock shall collect the same as provided in section seventy-eight-a-II of this act; and on receipt of each installment the president or cashier of such bank shall transmit to the commissioner of banking a statement of the fact, verified by his oath and attested by the signatures of at least three of the directors.

Compensation of Commissioner.

Sec. 81-a-XII. For making such examination and for preparing and preserving all records and reports contemplated in this act, the said commissioner shall be paid the sum of thirty-five hundred dollars per annum salary, and necessary expenses out of the state treasury, by proper warrant drawn by the auditor upon the treasurer, and the first assistant commissioner of banking shall receive twenty-four hundred dollars and other assistant commissioners shall receive eighteen hundred dollars per annum salary and necessary expenses, payable upon like warrants. There shall be paid by each of said banks or other institutions examined, to the state, as follows: If the total assets are less than one hundred and fifty thousand dollars, fifteen dollars; if one hundred and fifty thousand dollars and less than two hundred and fifty thousand dollars, twenty dollars; if two hundred and fifty thousand dollars and less than five hundred thousand dollars, twenty-five dollars; if five hundred thousand dollars and less than one million dollars, thirty dollars; if one million dollars, or over, thirty-five dollars; and said commissioner of banking shall collect all such fees and pay the same into the state treasury; *provided*, that building and loan associations when the total assets are less than one hundred thousand dollars are to pay ten dollars, if one hundred thousand dollars or over, twenty dollars.

Commissioner's Report.

Sec. 81-a-XIII. On or before the first day of December, the said commissioner shall make out, and submit to the governor, a careful and complete report, of all work done by his department, showing the total resources and liabilities of all the banks subject to his supervision, the increase or decrease for the year in such resources and liabilities, carefully noting any failures that may have occurred, stating the cause thereof, and making such remarks, suggestions and recommendations as he may deem pertinent; which report the governor shall bind with his message and documents and lay before the legislature.

Verification of Report.

Sec. 81-a-XIV. The report provided for in the next preceding section of this act shall be verified by the affidavit of said commissioner, who shall swear that in making the examination and inspection of each of the banks and other institutions provided for in this act, he has personally and carefully inspected the books, papers

and affairs of said banks, and other institutions, and that in no case has he received or agreed to receive directly or indirectly any reward, gift, or promise thereof, from any bank officer or individual other than that specified in this act.

Other Institutions Subject to This Act.

Sec. 81-a-XV. It is further expressly provided that all savings banks, co-operative banking associations, and all trust, title insurance, guaranty, surety and indemnity companies doing a banking business, and all other companies similar in character, whether heretofore or hereafter organized under the laws of this state, shall be subject to the provisions of this law, so far as it is applicable to them, and to the extent that the said commissioner shall semi-annually, or oftener if necessary, make a thorough examination of their books, papers, and affairs, and see that the laws under which they are operating are being carefully observed. And in case he finds that such institutions are being improperly conducted he shall proceed against them after the manner specified in section eighty-one-a-VII of this act.

Bonds of State Depositories.

Sec. 81-a-XVI. Whenever a bank or banking institution in this state applies to the board of public works to be made a depository of state funds, the bond of such bank or banking institution which is submitted to the board of public works to secure the state funds which may be deposited, and which is submitted in pursuance of section one of chapter seventeen of the code, shall first be submitted by said bank or banking institution to the commissioner of banking, who shall thereupon investigate the sufficiency of the security thereon, and endorse his opinion as to such sufficiency thereon and transmit the same to the board of public works. If such bond be accepted and approved by the board of public works, and said bank or banking institution made a state depository, as set out in said section one of chapter seventeen of the code, the secretary of state, when such bond is recorded, shall thereupon make a certified copy of the said bond and transmit the same to the commissioner of banking. It shall be the duty of the commissioner of banking to carefully preserve said certified copy, and at intervals of six months report in writing to the governor the sufficiency or insufficiency of the security thereon.

Sec. 81-a-XVII. Every president, director, cashier, teller, clerk or agent of any institution mentioned in this act who embezzles, abstracts or wilfully misplaces any of the money, funds or credits of the

institution, or who, without authority from the directors, issues or puts in circulation any of the notes of any bank or other institution, or who, without such authority, issues or puts forth any certificates of deposits, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree of any bank or other institution mentioned in this act, with intent in either case to injure or defraud the bank or other institution or any other company, body politic or corporate, or any individual person, or to deceive any officer of any bank or other institution or any agent appointed to examine the affairs of such bank or other institution, and every person who, with like intent, in any way aids or abets any officer, clerk or agent in the violation of this section, shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the penitentiary not less than five nor more than ten years.

Sec. 81-a-XVIII. Any officer, agent or clerk of any bank mentioned in this act who shall wilfully certify any check drawn upon such bank, unless the person, firm or company drawing the same has on deposit with the bank at the time such check is certified, an amount of money equal to the amount certified in such check, or shall certify such check before the amount thereof shall have been regularly entered to the credit of the person, firm or company drawing the same, upon the books or deposit slips of the bank, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned in the county jail not more than one year, or both, in the discretion of the court.

Sec. 81-a-XIX. It shall be unlawful for any bank, banking company or trust company, doing business in this state, to issue a certificate of deposit for the purpose of borrowing money.

Sec. 81-a-XX. Any violation of this act for which a penalty is not herein elsewhere specifically provided, shall be deemed a misdemeanor and any person convicted thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than one month nor more than six months.

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

(House Bill No. 56.)

CHAPTER 22.

AN ACT to amend and re-enact section seven of chapter one hundred and twenty of the code of West Virginia, as amended and re-enacted by chapter thirty-four of the acts of one thousand nine hundred and nine, relating to the appointment, removal and compensation of assistants to prosecuting attorneys.

(Passed February 15, 1913. In effect ninety days from passage. Approved by the Governor February 17, 1913.)

SEC.

7. Assistant prosecuting attorney may be appointed; oath; may be removed; compensation; who shall manage and control prosecutions; appointment of attor-

SEC.

ney to prosecute where prosecuting attorney and assistant are disqualified; employment of attorneys by individuals to assist in prosecution.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred and twenty of the code of West Virginia be amended and re-enacted so as to read as follows:

Sec. 7. Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath of office and may perform the same duties as his principal; and he may be removed from office as such assistant at any time by his principal; and further, he may be removed from office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal from the income of the office, except in the counties of Cabell, Fayette, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Wood and Ohio; and in said counties the county court thereof shall allow annually to such assistant such compensation to be paid out of the county treasury as is deemed reasonable by the county court in the counties of Fayette, Kanawha, Marion, McDowell, Mingo, Wood and Ohio, not less than one thousand nor more than two thousand dollars annually; and in the counties of Cabell, Mercer and Raleigh not to exceed the sum of one thousand dollars annually. The prosecuting attorney and his assistant (if he have one) shall manage and control all prosecutions for crimes and misdemeanors tried in the circuit court, or in any other court, having concurrent jurisdiction with the circuit court of the trial of crimes and misdemeanors, of any county.

for which such prosecuting attorney was elected or appointed. *Provided*, that in any case in which it would, in the opinion of the court, be improper for the prosecuting attorney and his said assistant (if he have one) to act, or if he should be ill and unable to act, such court shall appoint some competent practicing attorney to prosecute such case, and upon the performance of the service for which he was appointed, said court shall certify that fact, with its opinion of what would be a reasonable allowance to such attorney for the service rendered, to the county court of the county, and such sum or a different sum, when allowed by the county court, shall be paid out of the county treasury.

Provided, further, that nothing in this section shall be construed to prohibit the employment by any person, of competent attorneys to assist in the prosecution of any person or corporation, charged with crime.

(House Bill No. 97.)

CHAPTER 23.

AN ACT to regulate the use of common drinking cup and to prevent the communication of infectious diseases.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

- | | |
|--|---|
| <p>SEC.
1. Use of common drinking cup prohibited in all public places: board of health has authority to establish rules and regulations.</p> | <p>SEC.
2. Penalty for failure to observe the provision of this act.
3. Inconsistent acts repealed.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the use of the common drinking cup, an undoubted source of communication of infectious diseases, is hereby prohibited in all public places, upon all railroad trains and boats carrying passengers, in all public buildings of every description, and at public drinking springs and fountains within this state. The state board of health shall have full authority to establish rules and regulations to make this prohibition effective, as in their judgment may seem wise and proper.

Sec. 2. All persons, firms or corporations failing to observe the provisions of this act, or the rules and regulations of the state board

of health made in relation thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than fifty dollars for each offense.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 104.)

CHAPTER 24.

AN ACT to amend and re-enact sections one, three, four, five, six, sixteen and nineteen of chapter one hundred and fifty, of the code of one thousand nine hundred and six, as amended and re-enacted by the acts of the extra session of the legislature of one thousand nine hundred and seven, in chapters eleven and twelve, and by the acts of the legislature of one thousand nine hundred and nine, at its regular session, in chapters seventy-two and seventy-three, relating to the state and local boards of health, and offenses against the public health, and to add four new sections to be known as seven-a, nineteen-a, twenty-one-a and twenty-one-b to said chapter.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

<p>SEC. 1. State board of health; who to be appointed; term; vacancies. 2. Oath of office. 3. President and Secretary; board to be a corporation; seal; powers, rules and by-laws; quorum; meetings. 4. Duties of secretary. 5. Duties of the board. 6. Appointment of county health officer, his duties and salary; county boards of health; penalty for failure in duty.</p>	<p>SEC. 7a. Duty of county or municipal health officer; expense. 16. Salary of secretary; pay of members. 19. Sale of unwholesome drugs or provisions. 19a. Duty of Board, when reason to believe unwholesome provisions or drugs are offered for sale; cost of such investigations. 21a. Appropriation for state board. 21b. Inconsistent acts repealed.</p>
---	--

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be a state board of health in this state, consisting of two physicians residing in each of the congressional districts thereof, and until such a time as a bill redistricting the state is passed by the legislature, two members at large. Said physicians shall be graduates of reputable medical schools, and shall have practiced medicine for not less than six years continuously before their appointments, and no two members shall be residents of the same county

when appointed; any member of this board moving into a county already the residence of another member, shall vacate his office. The governor shall, in the month of May, in the year one thousand nine hundred and thirteen, appoint said physicians who shall be divided into two classes, each class consisting of one physician from each congressional district, and until such a time as a redistricting bill is passed, one at large.

The term of office of each class shall begin on the first day of June, in the year of their appointment. The term of office for the first class shall continue two years and of the second class four years, and until their successors are appointed and qualified. When the term of office of either class, or of any of said physicians, expires, the governor shall appoint their successors for the succeeding term.

The governor may in like manner appoint physicians to fill any vacancy that may occur in the board, but any appointment to fill a vacancy shall be for the unexpired term.

The term of office of the members of the state board of health, now in office, shall be continued by the governor for the term of their appointment, but at any time upon a rearrangement of district lines, or the formation of a new district in which two or more of the members live whose term of office expires at the same time, the governor shall have authority to remove, appoint or regulate the offices in conformity to this act.

Sec. 3. Said board shall on a day to be fixed by them in every two years, elect from their own number, a president who shall hold his office for the term of two years, and until his successor has been elected and entered upon his duties.

The board shall also have a secretary named by the governor, from one of their number, who shall be *ex officio* state health commissioner, and as such exercise all the powers conferred upon him by this chapter, carry out all rules, regulations and orders of the board, and exercise all other powers pertaining to offices of like kind. Said secretary shall be, when appointed, a physician in active practice; but during the term of his office the secretary shall devote his whole time to the duties of the office. The said board shall be a corporation by the name and style of the "state board of health of West Virginia," and have and use a common seal, and as such corporation may sue and be sued, contract and be contracted with, plead and be impleaded with, to the extent of the powers conferred upon them by this chapter. Said board may make and adopt all necessary rules, regulations and by-laws, not inconsistent with the laws or the

constitution of this state or the United States, to enable it to perform its duties and transact its business in conformity to the provisions of this chapter. A majority of the board shall constitute a quorum for the transaction of business. The secretary shall call all meetings of the board upon orders of the president or the written request of any three members thereof.

Sec. 4. The secretary shall be the recording officer of the board, and in addition to the other duties prescribed in this chapter, he shall respond to all communications from any member of the state board and other reputable physicians, and from officers of the state, and give them such information and advice as may be necessary from time to time as to measures of sanitation, or other matters connected with public health and safety. He shall be the custodian of all books and papers, instruments or appliances belonging to the state board of health, or that may be invested in his care. He shall also do and perform such other duties as the state board may lawfully direct, and in case of the prevalence of epidemics, endemics, infectious and contagious diseases, or other unusual sickness, he shall, upon the request of the local health officers, visit the locality and advise with such health officers as the state board may direct, and aid in the adoption of such regulations for its suppression as may seem best.

He shall annually report to the governor, on or before the first day of January, each year's investigations, discoveries and recommendations of the board, which shall be printed and distributed as soon as practicable thereafter in the same manner as other public documents of the state, except that the governor may cause said report to be printed and distributed annually.

Sec. 5. The board of health is invested with all the rights and charged with all the duties pertaining to organizations of like character, and shall be the sole advisor of the state in all questions involving the protection of the public health within its limits, and shall take cognizance of the interests of the life and health of the inhabitants of the state, and shall make or cause to be made, sanitary investigations and inquiries respecting the cause of diseases, especially of epidemics, endemics, and the means of prevention, the sources of mortality and the effects of localities, employments, habits and circumstances of life on the public health. They shall inspect and examine the food, drink and drugs offered for sale or public consumption, in such manner as they shall deem necessary, either in person or by agents or employes, and shall report all violations of

the laws of this state relating to pure food, drink and drugs to the prosecuting attorney of the county in which such violation may occur, and lay before such prosecuting attorney the evidence in their knowledge of such violations. They shall also investigate the causes of diseases occurring among the stock or domestic animals in the state, the methods of remedying the same, and shall gather information in respect to the matters embraced in this section and kindred subjects, for diffusion among the people. They shall also examine into and advise as to the water supply, drainage and sewerage of cities, towns and villages, the ventilation and warming of public halls, churches, school houses, work shops, prisons, and all other public institutions; the ventilation of coal mines and how to treat promptly accidents resulting from poisonous gases. When they believe that there is a probability that any infectious or contagious disease will invade the state from any other state, it shall be their duty to take such action and to adopt and enforce such rules as they may, in the exercise of their discretion, deem efficient for preventing the introduction and spread of disease or diseases. To better accomplish such objects, the boards are empowered to establish and strictly maintain quarantine at such places as they may deem proper, and may adopt rules and regulations to obstruct and prevent the introduction or spread of contagious or infectious diseases into or within the state, and shall have power to enforce these regulations by detention and arrest, if necessary. They may have power to enter into any town, city or corporation, factory, railroad train, steamboat, or any place whatsoever within the limits of the state for the purpose of investigating the sanitary and hygienic conditions, and may at their discretion take charge of any epidemic or endemic conditions, arising within the limits of the state and enforce such regulations as they may prescribe. But all expenses for guards, or other expenses incurred in controlling any endemic or epidemic conditions, shall be paid by the county in which such epidemic occurs.

The state board shall also cause to be kept in the office of the secretary, vaccine lymph, diphtheria antitoxin, tetanus antitoxin and other form of serum preventives of disease that they may deem necessary, and distribute same to county and municipal health officers, to be used for the benefit of the poor and indigent, and in other cases where they may deem it urgently necessary to check contagion, free of charge.

Sec. 6. It shall be the duty of the state board of health, upon the recommendation of the county court of the county, to appoint in

each county of this state one legally qualified physician who shall be known as the county health officer. His first term of office shall begin July first, one thousand nine hundred and thirteen, and continue for a period of four years, unless removed by said state board of health for good cause. The county health officer shall receive an official salary of not less than one hundred dollars, and such other amount as the county court may add for additional services, and actual expenses necessary for traveling expenses, unless for work especially done under orders of the state board of health. The salary of the county health officer shall be paid out of the treasury of the county, and he together with the president of the county court and the prosecuting attorney shall constitute the county board of health, of which the county health officer shall be the executive officer. The county board of health shall exercise all the powers, rules and regulations of the state board so far as applicable to such county. It shall be the duty of every practicing physician to report to the county health officer every case of infectious or contagious disease that may arise or come under his treatment, and the county health officer shall, at least every three months, make a full report to the state board, giving the character of all such epidemic, endemic, infectious or contagious diseases, stating the number of cases reported, character of infection, action taken by the county board to arrest the infection, and the results.

The jurisdiction of the county boards of health shall not extend to any town or city in this state having a health board of its own, but they may be and are auxiliary to each other, and all city, town and village boards of health, or health officers are secondary to, and subject to all orders of the state board, which may, if deemed expedient, act through the county or municipal board. Any failure to comply with any of the provisions of this section shall be considered a misdemeanor, and upon conviction thereof the offender be fined not more than one hundred dollars.

Sec. 7a. It shall be the duty of every county or municipal health officer to meet with the state board of health, or its representatives, at least once a year, due notice having been given at such time and place as said state board of health may designate, to attend a school of instruction for the purpose of familiarizing such county health officers with their duties in the interests of public health.

The actual expense of the attendance of such county or municipal health officer shall be paid by the county or corporation represented

by such local officer, upon presentation of a certificate from the state board showing the expense of such attendance. *Provided*, that such expense shall not exceed an amount sufficient to cover an attendance of three days in any one year. Any county health officer may be excused from attending by the state board for good cause.

Sec. 16. The secretary of the state board of health shall receive a salary to be fixed by the board, but not to exceed the sum of three thousand dollars per year with, in addition, traveling, clerical and other necessary expenses incurred in the performance of his official duties within the limits of the state. The other members of said board shall receive four dollars per day with other expenses actually and necessarily incurred by them in the discharge of the duties of their office. The said board shall have power to expend annually, for the purpose of performing the duties imposed by this act, including the maintenance of a laboratory and the employment of necessary chemists, bacteriologists, servants and agents, such sum as may be appropriated by the legislature for their use. The state board shall audit all bills made out in due form, and verified by the members, employees or agents rendering service or incurring expenses or traveling in the performance of the duties of their office or employments. Such bills when approved by the governor shall be paid out of the state treasury.

Sec. 19. If a person knowingly sell or expose for sale, any diseased, corrupted or unwholesome drugs or provisions, whether food or drink, without making the same known to the buyer, he shall, upon conviction thereof, be confined in jail not more than six months and fined not exceeding one hundred dollars.

Sec. 19a. Whenever the state board of health has reason to believe that any food, drink or drug, sold or offered for sale, is diseased, corrupted, unwholesome or adulterated, it shall take or cause to be taken by its authorized agent, a specimen thereof and test or analyze the same. And if the result of such test or analysis in the case indicates that the said food, drink or drug, is diseased, corrupted, unwholesome or adulterated, the same shall be *prima facie* evidence of such fact in prosecutions under this act. If the board, deeming it necessary, shall cause such food, drink or drug to be analyzed, the result of such analysis shall be recorded and kept in evidence, and a certificate of such results, sworn to by the person making the analysis, who shall also state under oath in his certificate that he was the first thereunto duly

authorized by the state board of health, and state also the reasonable cost of such analysis, shall be admissible in evidence in prosecution under this act. The expense of such analysis, not exceeding fifteen dollars in any one case, shall be included in the cost of such prosecutions and taxed in favor of said board of health.

Sec. 21a. There is hereby appropriated from any moneys in the state treasury not otherwise appropriated, the sum of fifteen thousand dollars annually for the use of the state board of health in carrying out the provisions of this chapter.

Sec. 21b. All acts and parts of acts inconsistent with this act are hereby repealed.

(House Bill No. 105.)

CHAPTER 25.

AN ACT to amend and re-enact sections six, seven, nine, fourteen and sixteen, of chapter thirty-three of the code, relating to taxes on collateral inheritances, devises, distributive shares and legacies.

(Passed February 18, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

Sec.

6. Transfers of personal property when not taxed; taxation of property of non-residents; when transfer of property shall not be legal until.
7. Taxes upon transfer and interest that may accrue shall remain a charge and lien upon the property, superior to such other

Sec.

- liens; executors, etc., liable when.
9. When tax is payable.
14. Tax commissioner ascertain as to transfer of property, and his duty.
16. Appraisers; how appointed if clerk of county court fail or refuse to do so.
17. Repealing conflicting acts.

Be it enacted by the Legislature of West Virginia:

That sections six, seven, nine, fourteen and sixteen of chapter thirty-three of the code, relating to a tax on collateral inheritances, devises, distributive shares and legacies be amended and re-enacted so as to read as follows:

Sec. 6. A transfer of personal property of a resident of the state which is not therein or within the jurisdiction thereof, at the time of his death, shall not be taxable, under the provisions of this act if such transfer or the property be legally subject in another state or country to a tax of a like character and amount to that hereby imposed, and if such tax be actually paid or guaranteed or secured, in accordance with the law in such other state or country, if legally

subject in another state or country to a tax of like character, but of less amount than that hereby imposed, and such tax be actually paid, or guaranteed, or secured as aforesaid, the transfer of such property shall be taxable under this act to the extent of the difference between the tax thus actually paid, guaranteed or secured, and the amount for which such transfer would otherwise be liable hereunder, or within the jurisdiction thereof.

The provisions of this act shall apply to the transfer of the following property belonging to deceased persons, non-residents of this state, which shall pass by will, or inheritance under the law of any other state or country, and such property shall be subject to the tax imposed by this section, to-wit:

(a) The transfer of all real estate and tangible personal property, including money on deposit in this state;

(b) The transfer of all intangible personal property, including bonds, securities, shares of stock and choses in action, the evidence of ownership to which shall be actually within this state; and

(c) The transfer of the shares of capital stock of all corporations organized and existing under the laws of this state, the certificates of which shares of stock shall be within or without this state.

The transfer of any property mentioned in sub-divisions (a) and (b) and the transfer of the shares of stock mentioned in sub-division (c) of this section, after the decease of the person owning the same, shall not be legal until the inheritance or transfer tax has been paid into the state treasury and a certificate of release to that effect executed by the state tax commissioner. No corporation organized or existing under the laws of this state shall transfer any such shares of stock, unless notice of the time of such intended transfer is served upon the state tax commissioner at least fifteen days prior to such transfer, or until the state tax commissioner shall consent in writing thereto. Any such corporation making the transfer of any such shares of stock before the inheritance tax is paid, or before obtaining the consent of the state tax commissioner thereto, shall be liable to the state of West Virginia for said tax, together with any interest that may accrue thereon, and in addition thereto a penalty of five hundred dollars; which liability for such tax and interest and penalty may be enforced by a proper action in the name of the state of West Virginia.

Sec. 7. All such taxes upon any transfer, and the interest that may accrue thereon, shall, until paid, be and remain a charge and

lien upon the property transferred, superior to any lien created after such transfer, and no title shall vest or be transferred as to any such property, except subject to the lien for such taxes, and no such property shall be paid, transferred or delivered, in whole or in part, until the payment into the treasury of the state of the amount of such tax. The person to whom the property is transferred, if he shall receive the same before the tax thereon is paid, and the executors, administrators and trustees having charge of every estate so transferred, shall be personally liable for such tax and interest until its payment, and no statute of limitations shall be a defense to any action for the recovery thereof.

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

Sec. 14. The state tax commissioner shall as soon as may be, from the statements and reports made by the clerk and the personal representative or trustee or other person as aforesaid, from the inventory of the estate, if there be one, and from such other information as he may be able to procure, ascertain whether any transfer of any property be subject to a tax under the provisions of this chapter, and, if it be subject to tax, shall ascertain and assess the amount of the tax to which it is subject. If in his opinion the transfer of any of the property so transferred is taxable under the provisions of this act, he shall make his certificate to that effect, setting out:

- (a) The amount of such property liable to such tax.
- (b) The rate of tax thereon.
- (c) The names of the beneficiaries thereof.
- (d) Their degree of relationship to the decedent, and

(e) The amount of tax; and it shall be the duty of the county clerk and personal representative of every such estate, and if there be no personal representative the beneficiaries thereof, to show in their report to the state tax commissioner the information upon which to base such assessment. The state tax commissioner shall make duplicate certificates of his assessment, one of which he shall forward to such personal representative, trustee, grantee, vendee or bargainee.

If the tax is not paid within thirty days after the assessment thereof, the state tax commissioner may forward the other certificate

to the clerk of the county court of the county wherein the property, or the greater part thereof in value is located, which certificate shall be recorded by the clerk in the trust deed book in his office. For recording such certificate of assessment the clerk shall charge a fee of fifty cents to be paid out of the estate.

Sec. 16. If within sixty days from the death of any person whose estate is liable to an inheritance tax under this chapter, the county court, or the clerk thereof in vacation, shall fail or refuse to appoint appraisers as is now provided, or may hereafter be provided by law, to appraise such estate, the state tax commissioner may appoint such appraisers and the appraisers so appointed, upon notice given them by the state tax commissioner, shall proceed to appraise said estate and make return of their appraisement in all respects as is now or may hereafter be provided by law.

The tax commissioner shall, at the time he makes appointment of appraisers as herein provided, notify the clerk of the county court of the county wherein the appraisers reside, and the property to be appraised is located, of such appointment, and said clerk shall make such appointment a matter of record in his office in a book provided for such purpose.

Sec. 17. All acts and parts of acts inconsistent with this act are hereby repealed.

(House Bill No. 192.)

CHAPTER 26.

AN ACT to amend and re-enact section three and section seven and section ten of chapter nineteen of the acts of the legislature of West Virginia, at session of one thousand nine hundred and eight, approved on the fourth day of March, one thousand nine hundred and eight, as amended by chapter forty-five of the acts of the legislature of West Virginia at the session of one thousand nine hundred and eleven, approved on the twenty-fourth day of February, one thousand nine hundred and eleven.

(Passed February 7, 1913. In effect from passage. Approved by the Governor February 8, 1913.)

Sec.
3. Clerk of the county court shall notify registrars, and cause to be delivered to them books and blanks; registrars duty; clerk of county court shall furnish list of voters last taken; provision in case of special election, etc.

7. When county court shall convene and register voters and strike

Sec. off illegal voters; an order must be made in each case; appeal may be taken; penalty for improperly adding to or omitting from list.

10. Copy of registration to be furnished the commissioners of elections; clerks' fee for copy furnished by him.

Be it enacted by the Legislature of West Virginia:

That section three and section seven and section ten of chapter nineteen of the acts of the legislature of West Virginia at the session of one thousand nine hundred and eight, approved on the fourth day of March, one thousand nine hundred and eight, as amended by chapter forty-five of the acts of the legislature of West Virginia at the session of one thousand nine hundred and eleven, approved on the twenty-fourth day of February, one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 3. The clerk of the said county court shall within five days after the appointment of said registrars as aforesaid, notify each of the registrars so appointed of his appointment and give the name of the other registrar, which notice may be sent by registered mail, and the clerk shall likewise on or before the third Monday in August next after the appointment of said registrars, cause to be delivered to said registrars copies of the books and blanks prepared as aforesaid, for the registration of voters of the respective precincts, and upon the receipt of the said books and blanks, the said registrars shall meet together on the first Monday of September thereafter, and proceed to register the names of all the qualified voters within their respective precincts, and shall endeavor to ascertain and register each and every qualified voter entitled to vote within the precinct, and for this purpose shall visit the usual place of abode of each and every voter. And said registrars, to ascertain the qualified voters, shall examine the registration list made for such precinct for the last preceding general election; and shall transfer the names of all voters registered on such former list, who at the time of such registration being made, may be qualified voters in said precinct, to the registration being so made. And the clerk of said county court shall furnish to each of said registrars a certified copy of the registration list made for such precinct for the last preceding general election, for which he shall receive two cents a name for each copy, to be allowed by the county court payable out of the county treasury. And in registering each voter, said registrar shall (as far as possible) give the christian name and his surname, and shall designate the place of his residence, his age and color, and whether he is a native or foreign born, which information shall be given in the proper column provided in the books furnished by the clerk of the county court, as hereinbefore provided.

Provided, however, that when for any purpose a special election is held in any county, district thereof, or independent district thereof, at any time, it shall not be necessary for the registrars to list or register any of the voters, and the voters shall be listed and registered by the county court as provided in section seven hereof.

Sec. 7. It shall be the duty of the county court of each county to convene in regular or special session on the second Monday in October preceding any general election, and on the fifth day preceding any special election in any county, district or independent district, for the purpose of hearing any and all matters as to the registration of voters, at which said meeting of the county court they shall examine the returns made to them by the registrars throughout the county, or in case of special election, throughout the county, district or independent district wherein such special election is held, and filed with the clerk of the county court as hereinbefore provided, 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, either because the same have been omitted or by reason of such persons having become entitled to vote since such registration was made, the court shall cause their names to be registered as qualified voters; and in case of special elections at any time in the county, district or independent district of the county, it shall be the duty of the county court when so sitting five days preceding any such special election as hereinbefore provided, to register and list the voters in the county, district or independent district in which such special election is about to be held, and in doing so the county court shall adopt the registration by registrars at the next preceding general election prior thereto, and if the county court is satisfied that persons have been registered who are not then entitled to vote at such special election, they shall cause their names to be stricken from the list of voters, and if they find that persons' names have been omitted by the registrars who should be registered then, either because the names of same have been omitted or by reason of such person having become entitled to vote since such registration, for the then next preceding general election, was made, the court shall cause their names to be registered as qualified voters; the county court shall accordingly correct the list so returned by the registrars for such county, district or independent district wherein and wherefor such special election is to be

so held, and thereto certify by order entered of record, and thereby the said county court shall be held to have duly registered and listed the voters in such county, district and independent districts wherein such special elections are held; but in no case shall the court erase the name of any voter until he shall have had five days' notice of the application to strike his name from such registration list, and he shall have the right to rebut any evidence produced against him, and shall have his name restored to said list if improperly stricken therefrom. From the decision of the county court an appeal may be taken by the voters or either of the registrars or any voter of said county, to the circuit court of said county, and from the decision of the circuit court an appeal may likewise be taken to the supreme court of appeals. In no case shall the clerk enter any name on the list of registered voters, or strike any name therefrom, except by order of the county court entered of record. And any person who shall enter any name upon the registration lists or omit any name from the registration list without an order of the court, entered of record so directing, he shall be guilty of a felony, and upon conviction he shall be confined in the penitentiary not less than one nor more than three years for each offense.

Sec. 10. The clerk of the county court shall furnish one copy of said registration books to the election commissioners of the respective voting precincts, with the ballot boxes and other election supplies to be used by them in the conduct of the election in their said voting precincts. *Provided*, that in case of special elections in the county, district and independent districts of the county, instead and in lieu of such registration books, the clerk of the county court shall furnish a certified list of the voters of the respective precincts, as listed and registered by the county court for such special election, to the election commissioners of the respective voting precincts, with the ballot boxes and other election supplies to be used by them in the conduct of the election in their said voting precincts; for which services in case of special election the county clerk shall receive two cents a name for each copy so furnished by him to be allowed by the county court payable out of the treasury of the county, district or independent district wherein is held such special election.

This act shall take effect from its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 294.)

CHAPTER 27.

AN ACT to provide for the protection of elk.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC. 1. No person shall hunt, chase, wound or kill any elk for fifteen years.	SEC. Owner may under certain conditions; penalty for violation.
---	--

Be it enacted by the Legislature of West Virginia:

Sec. 1. That no person shall hunt, chase, wound or kill any elk in this state at any time for a period of fifteen years from and after the passage of this act; *provided*, that the owner of any elk, which shall be kept in any park or field, sufficiently enclosed to reasonably prevent their escape therefrom, shall have the right to kill any elk of his own; and, *provided, further*, that such owner may pursue, recapture or kill any of his elk that may escape from his enclosure.

Any person violating any provision of this act shall be guilty of a felony, and on conviction thereof shall be confined in the penitentiary not less than six months nor more than five years.

(House Bill No. 345.)

CHAPTER 28.

AN ACT to amend and re-enact sections eighteen and twenty-one of chapter sixty-three of the code, relating to the registration of physicians and accoucheurs, the report of births and deaths, and the fees to be paid for such reports.

(Passed February 18, 1913. In effect ninety days from passage. Approved by the Governor February 19, 1913.)

SEC. 18. Registration of physicians and accoucheurs; reports of births and deaths; forms.	SEC. 21. Fee for making reports, if they state all the facts required.
--	---

Be it enacted by the Legislature of West Virginia:

That section eighteen of chapter sixty-three of the code be amended and re-enacted so as to read as follows:

Sec. 18. Every physician and accoucheur shall register his name

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

And that section twenty-one of chapter sixty-three of the code be amended and re-enacted so as to read as follows:

Sec. 21. Every person making a report, under the provisions of sections eighteen, nineteen and twenty shall for every such report receive the sum of twenty-five cents to be paid out of the county treasury; *provided*, all such reports so made shall be full and complete and shall state all of the facts required by said section, and unless such reports do so state all of said facts so required, no fee shall be allowed or paid therefor.

(House Bill No. 367.)

CHAPTER 29.

AN ACT to amend and re-enact section eleven, chapter seven (serial section one hundred and eighty-seven of one thousand nine hundred and six code) of the code of West Virginia, relating to the appointment of deputy sheriffs.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 24, 1913.)

Sec.

11. Clerk of court may appoint deputy; sheriff or assessor may appoint deputy; shall be entered of record; deputy required to take oath; sheriff may appoint deputy with the consent of the circuit court; not lawful to ap-

Sec.

point deputy to act as guard or watchman for individual, firm or corporation, nor appoint deputy to act for or represent as officers of the law any individual, firm or corporation.

Be it enacted by the Legislature of West Virginia:

Sec. 11. The clerk of any court may, with the consent of such court, or the clerk of the supreme court of appeals, or of a circuit, may, with the consent of the judge or judges thereof in vacation, appoint any person his deputy. And the clerk of the county court of any county in which now exists a tribunal for police and fiscal purposes, established under the thirty-fourth section of the eighth article of the constitution of this state, may appoint any person his deputy. A sheriff, surveyor of lands or assessor, may, with the consent of the county court, appoint any person his deputy. Such consent shall, in every case, be entered of record, and such appointment by the clerk of the county court in a county where now exists such tribunal as aforesaid, shall be entered of record. Every deputy so appointed shall take the same oath his principal is required to take, and may, during his continuance in office, discharge and perform any of the official duties of his principal, and any default or misfeasance in office of such deputy, shall be deemed a breach of the conditions of the official bond of his principal. And when in the opinion of the circuit court the public interests require it, a sheriff may, with the consent of the said circuit court, appoint any person his deputy.

But it shall not be lawful for any of the aforesaid officers of this state to appoint any deputy or deputies to act as, or perform any duties in the capacity of guards or watchmen for any private individual, firm or corporation, nor shall the above named officers be authorized to appoint any person or persons as deputy or deputies to act for or to represent, in any capacity, as officers of the law, any individual, person, firm or corporation.

All acts or parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 397.)

CHAPTER 30.

AN ACT to amend and re-enact section one of chapter fifty-six of the code of one thousand nine hundred and six, relating to the board of public works.

(Passed February 15, 1913. In effect ninety days from passage. Approved by the Governor February 18, 1913.)

SEC.

1. Board of public works, how constituted.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The governor, secretary of state, auditor, superintendent of free schools, treasurer, attorney general and commissioner of agriculture, shall be and constitute a corporation under the style of "the board of public works."

(Senate Bill No. 16.)

CHAPTER 31.

AN ACT authorizing the board of trustees of the Point Pleasant monument to expend money in preserving and improving the monument, grounds and buildings thereon.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC.

1. Board of trustees authorized to preserve, repair and improve monument, grounds and buildings out of any money in their hands.

SEC.

2. Shall appoint treasurer who shall give bond, etc.; trustees to make report annually.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the board of trustees of the Point Pleasant monument, now in office, or who may hereafter be appointed by the governor, be and they are hereby authorized and empowered to preserve, repair and improve the Point Pleasant monument, the grounds and any buildings thereon under their control, out of any money in their hands, or that may hereafter come into their hands, received from rents, donations, appropriations or otherwise.

Sec. 2. That the trustees shall appoint one of their number treasurer, who shall give bond in the sum of ten thousand dollars, with good security to be approved by the governor, to account for and pay over all moneys coming into his possession as such treasurer, and all money received by the trustees shall be turned over to such treasurer. The trustees shall annually make a written report to the board of public works, showing by items the amount expended on said monument, grounds and buildings and for what purpose the same was expended.

(Senate Bill No. 36.)

CHAPTER 32.

AN ACT to amend and re-enact section forty-nine, serial section one thousand two hundred and sixty-three of chapter thirty-nine of the code of West Virginia, as amended and re-enacted by chapter thirty-two of the acts of the legislature of one thousand nine hundred and nine.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 25, 1913.)

SEC.

49. Allowance to county officers; duty of prosecuting attorney.

Be it enacted by the Legislature of West Virginia:

That section forty-nine, serial section one thousand two hundred and sixty-three of chapter thirty-nine of the code of West Virginia, as published in the year one thousand nine hundred and six, as amended and re-enacted by chapter thirty-two of the acts of the legislature of West Virginia of one thousand nine hundred and nine, be amended and re-enacted so as to read as follows:

Sec. 49. The county court of every county shall allow annually to the county officers, hereinafter mentioned, for their public services, for which no other fee or reward is allowed by law, that is to say:

To the sheriff not to exceed two hundred dollars, except that the sheriff of Doddridge, Grant, Mineral, Hardy, Pendleton, Jackson, Logan, Monongalia, Monroe, Morgan, Putnam, Preston, Randolph, Ritchie, Raleigh, Summers, Taylor, Tyler, Tucker, Upshur and Webster counties shall be allowed a sum not to exceed three hundred dollars; Greenbrier, Hampshire, Wyoming, Lewis, Marshall, Mercer and Wetzel not less than three hundred dollars nor more than six hundred dollars; and Pleasants and Mingo not to exceed four hundred and fifty dollars; and to the sheriffs of Harrison, Cabell, Lincoln, Marion, McDowell, Fayette, Braxton, Ohio, Kanawha and Wood counties a sum not to exceed five hundred dollars.

To the clerk of the circuit court not to exceed two hundred dollars, except that the clerk of the circuit court of Ohio, Kanawha, McDowell, Fayette, Harrison, Marion and Mingo counties shall be allowed annually not less than two thousand nor more than three thousand dollars; to the clerk of the circuit court of Wood, Wetzel, Mercer and Cabell counties, shall be allowed annually not less than

one thousand nor more than two thousand dollars; and of Hampshire, Hardy, Grant, Pendleton and Pleasants counties, shall be allowed a sum not to exceed four hundred dollars; and the circuit clerk of Mineral, Monongalia, Preston, Pocahontas, Raleigh, Nicholas and Webster counties, not less than four hundred nor more than six hundred dollars; and the county of Roane not less than three nor more than six hundred dollars; and the counties of Summers, Calhoun, Gilmer, Logan and Wirt not less than five hundred nor more than six hundred dollars; and the counties of Berkeley, Greenbrier, Jackson, Lincoln, Marshall, Mason, Putnam, Randolph, Tucker, Tyler, Upshur and Wayne not less than four hundred dollars each and not to exceed eight hundred dollars; and in the counties of Taylor and Jefferson not less than five hundred nor more than eight hundred dollars; and in the counties of Barbour, Lewis, Braxton and Clay not less than six hundred nor more than eight hundred dollars; and in the county of Ritchie not less than seven hundred nor more than one thousand dollars; and in the county of Wyoming not less than three hundred nor more than six hundred dollars; and in the county of Doddridge not less than six nor more than twelve hundred dollars.

To the clerk of the county court a sum not exceeding two hundred dollars, except that the clerk of the county court of Barbour, Grant, Hardy, Pendleton, Logan, Mineral, Monroe, Pleasants, Putnam, Upshur, Pocahontas and Wayne counties shall be allowed a sum not less than three hundred dollars nor more than six hundred dollars; and in the counties of Ritchie, Lewis and Fayette a sum not less than six hundred nor more than one thousand dollars, and in the counties of Tyler, Greenbrier and Taylor not less than three nor more than eight hundred dollars; and in the counties of Summers, Harrison, Wirt, Calhoun, Gilmer, Mercer and Wyoming not less than three hundred nor more than six hundred dollars; and to the clerk of the county courts of Berkeley, Braxton and Hampshire a sum not to exceed five hundred dollars; and to the clerk of the county courts of Cabell, Marion, Marshall, Mason, McDowell, Mingo, Monongalia, Roane, Kanawha, Preston, Wetzel, Jackson and Wood counties, a sum not to exceed six hundred dollars each; and to the clerk of the county courts of Lincoln, Tucker, Clay, Nicholas, Raleigh, Randolph and Doddridge counties, a sum not less than four hundred nor more than six hundred dollars each, and to the clerk of the county court of Ohio county a sum not in excess of five hundred dollars.

To the prosecuting attorney not less than two hundred nor more than four hundred dollars, except as follows: In the counties of Brooke, Ritchie, Hancock, Monroe and Upshur not less than three hundred nor more than six hundred dollars; and in the counties of Mercer, Gilmer, Wetzel, Tyler, Pleasants, Greenbrier, Doddridge, Wayne, Calhoun and Jefferson not less than six nor more than twelve hundred dollars; and in the county of Hampshire not less than four hundred nor more than eight hundred dollars; and in the counties of Clay, Raleigh and Lewis not less than eight hundred nor more than one thousand dollars; and in the counties of Berkeley, Jackson, Marshall, Mineral, Preston, Summers, Braxton, Monongalia, Putnam, Lincoln Tucker, Wyoming, Randolph and Logan, not less than five hundred nor more than one thousand dollars; in the county of Barbour not less than nine hundred dollars nor more than twelve hundred dollars; in the counties of Taylor and Pocahontas not less than five hundred nor more than twelve hundred dollars; in the county of Roane not less than twelve hundred dollars nor more than eighteen hundred dollars; and in the counties of Cabell, Fayette, Harrison, Kanawha, Marion, Mason, McDowell, Mingo and Wood not less than two thousand nor more than three thousand dollars; and in the county of Ohio not less than twenty-five hundred nor more than thirty-five hundred dollars; and in the counties of Nicholas and Webster not less than one thousand nor more than fifteen hundred dollars; and in the county of Morgan not less than six hundred nor more than eight hundred dollars.

But no extra compensation shall be allowed any public officer, agent, servant or contractor, after the service shall have been rendered or the contract made; nor shall any public officer have his salary increased or diminished during his term of office.

And it shall be the duty of the prosecuting attorney to attend to, bring or prosecute, or defend, as the case may be, all actions, suits and proceedings in which his county or any district board of education is interested, without additional compensation.

(Senate Bill No. 89.)

CHAPTER 33.

AN ACT to provide for the distribution of the journals and bills of the legislature to the people of the state.

(Passed January 30, 1913. In effect from passage. Approved by the Governor February 4, 1913.)

SEC.

1. Secretary of state shall mail printed journal and bills to each newspaper published in state; to each person whose name, etc.
2. Every member of legislature may

SEC.

- file with clerk list of names, and the clerk shall furnish names to secretary of state.
3. The secretary of state shall prepay postage and render statement; how the amount shall be paid.

Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be the duty of the secretary of state as soon as possible after the printed journal is delivered each day, to mail or cause to be mailed to each newspaper regularly published in this state, and to each person whose name and address shall be given him by the clerk of either the senate or house of delegates, a copy of each day's journal of each house and a copy of every bill which may be ordered printed by either house or any committee thereof.

Sec. 2. Every member of the house of delegates or senate may file with the clerk of the house of which he is a member, a list of names of such of his constituents, not exceeding fifteen, as may in his opinion be interested in the proceedings of the legislature, or in any bill therein pending, together with the post office address of such persons, and the clerk of each house shall compile a list of such persons and deliver it to the secretary of state, and said clerk shall each day file with the said secretary of state a supplemental list giving the names and addresses of any persons added to or to be added to such list at the request of any member of their respective bodies.

Sec. 3. The secretary of state shall prepay the postage upon all of such journals and bills, and he shall render to the legislature on the second day before the adjournment thereof, a statement of the amount of postage expended out of his contingent fund for the purpose of carrying out the provisions of this act, and an estimate of the amount necessary to send said journals and bills for the remainder of the session, and it shall be the duty of the legislature to make provision for the payment of the same by adding the amount thereof to the appropriation for contingent expenses of the office of secretary of state.

(Substitute for Senate Bill No. 126.)

CHAPTER 34.

AN ACT to amend and re-enact section fourteen-a-one of chapter thirty of the code of West Virginia, as amended and re-enacted by chapter fifty-six of the acts of one thousand nine hundred and eleven, relative to the extension of time given sheriffs for collecting taxes.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

SEC.
14-a-1. Extension of time given sheriffs for collection of taxes.

Be it enacted by the Legislature of West Virginia:

That section fourteen-a-one of chapter thirty of the code of West Virginia, as amended by chapter fifty-six of the acts of one thousand nine hundred and eleven, be amended and re-enacted so as to read as follows:

Sec. 14-a-1. The sheriffs of the several counties of the state of West Virginia whose term of office expired on the thirty-first day of December, one thousand nine hundred, and those whose term of office expired on the thirty-first day of December, one thousand nine hundred and four, and those whose term of office expired on the thirty-first day of December, one thousand nine hundred and eight, and those whose term of office expired on the thirty-first day of December, one thousand nine hundred and twelve, shall be allowed until the thirty-first day of December, one thousand nine hundred and seventeen within which to make distraint and sale for the collection of taxes, with interest thereon, and costs of collection, not returned delinquent for the years one thousand eight hundred and ninety-seven, one thousand eight hundred and ninety-eight, one thousand eight hundred and ninety-nine, one thousand nine hundred, one thousand nine hundred and one, one thousand nine hundred and two, one thousand nine hundred and three, one thousand nine hundred and four, one thousand nine hundred and five, one thousand nine hundred and six, one thousand nine hundred and seven, one thousand nine hundred and eight, one thousand nine hundred and nine, one thousand nine hundred and ten, one thousand nine hundred and eleven, and one thousand nine hundred and twelve; and the said sheriffs and their deputies and constables of their respective counties are empowered to collect the said taxes, either by suit or by making

distrain and sale of the property of the persons against whom such assessments for taxes were made for the years one thousand eight hundred and ninety-seven, one thousand eight hundred and ninety-eight, one thousand eight hundred and ninety-nine, one thousand nine hundred, one thousand nine hundred and one, one thousand nine hundred and two, one thousand nine hundred and three, one thousand nine hundred and four, one thousand nine hundred and five, one thousand nine hundred and six, one thousand nine hundred and seven, one thousand nine hundred and eight, one thousand nine hundred and nine, one thousand nine hundred and ten, one thousand nine hundred and eleven, and one thousand nine hundred and twelve, and which taxes have not been returned delinquent for those years; and in case any such person against whom such assessments were made for those years has removed or shall remove to another county, the said sheriff and his deputies are authorized to make distrain and sale in such county to which any such person has removed or shall remove. Such sheriff may send a statement of the taxes due from any such person who has removed into another county to the sheriff of the county to which he or she has removed, and the sheriff of that county is authorized and empowered to make levy and collection of the said taxes on assessments made in his own county.

(Senate Bill No. 223.)

CHAPTER 35.

AN ACT to provide for the preservation and maintenance of the state law library at Charles Town, in Jefferson county, West Virginia.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 26, 1913.)

<p>SEC. 1. County court of Jefferson county to appoint librarian; term six years; duty.</p>	<p>SEC. 2. Shall give bond; salary.</p>
---	---

Be it enacted by the Legislature of West Virginia:

Sec. 1. The county court of Jefferson county is hereby authorized and directed to appoint some competent person librarian of the state law library at Charles Town, in the county of Jefferson. The person so appointed shall continue in office for and during the term of six

years from the date of such appointment, unless sooner removed by said county court for good cause, and shall perform such duties, and make and enforce such rules and regulations respecting the use of such library as may be prescribed by said county court; and such person shall be in attendance at the library on such days and during such hours as said county court may direct.

Sec. 2. Such person shall give a bond in the penalty of five hundred dollars, with security to be approved by said court, payable to the state of West Virginia, with condition for the faithful performance of his duties as such librarian. He shall receive an annual salary of five hundred dollars, to be paid out of the state treasury on the certificate of the county court of said county.

(House Bill No. 20.)

CHAPTER 36.

AN ACT fixing the salaries of the state superintendent of free schools and the state treasurer.

(Passed February 18, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

Sec.

1. Salary of state superintendent of free schools and state treasurer.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That from and after the fourth day of March, one thousand nine hundred and thirteen, the state superintendent of free schools shall receive an annual salary of four thousand dollars and the state treasurer shall receive an annual salary of three thousand five hundred dollars, payable monthly out of the treasury.

(Senate Bill No. 174.)

CHAPTER 37.

AN ACT to amend the charter of the Odd Fellows' hall association, of the city of Wheeling, by amending and re-enacting the preamble, and sections one, two, three, four, five, six, seven, eight, nine, ten and eleven of an act of the general assembly of Vir-

ginia, entitled, "an act to incorporate the Odd Fellows' hall association, of the city of Wheeling," passed February twenty-first one thousand eight hundred and fifty-six; and section nine of the same act, as amended and re-enacted by an act of the said general assembly passed March fifteenth, one thousand eight hundred and fifty-eight, as amended and re-enacted by the legislature of West Virginia, entitled, "an act to amend the charter of the Odd Fellows' hall association," by an act of the said legislature passed January twenty-ninth, one thousand eight hundred and eighty-seven.

(Passed February 20, 1913. In effect from passage. Approved by the Governor February 26, 1913.)

SEC.

1. The Odd Fellows' hall association created a body politic.
2. Stockholders meeting to be held, where and purpose.
3. Capital stock personal property.
4. Stockholders may name trustees.
5. Trustees shall choose officers, make contracts, etc.
6. Stockholder failing to pay subscription may have judgment taken against him.

SEC.

7. Who are eligible as trustees.
8. There shall not be less than five stockholders; vote allowed in stockholders' meeting.
9. Leases, deeds, etc., may be executed.
10. May at any time in general meeting resolve to discontinue the business; notice.
11. When in force.

Be it enacted by the Legislature of West Virginia:

That the preamble, and sections one, two, three, four, five, six, seven, eight, nine, ten and eleven of an act of the general assembly of Virginia, entitled, "an act to incorporate the Odd Fellows' hall association, of the city of Wheeling," passed February twenty-first, one thousand eight hundred and fifty-six, and section nine of said act as amended and re-enacted by an act of the said general assembly, passed March fifteenth, one thousand eight hundred and fifty-eight, as amended and re-enacted by an act of the legislature of West Virginia passed January twenty-ninth, one thousand eight hundred and eighty-seven, be amended and re-enacted so as to read as follows:

WHEREAS, it is represented to the general assembly that John Hamilton, Finley A. Burk, James M. Todd, Norman G. Marsh, Jacob Berger, Charles Ditmar, William M. Berryhill, George Mendel, Isaac Cotts, William Y. Taylor, Frederick A. Brentlinger, Henry Sharp, John Pfarr, William Klinkler, and sundry others, have, as a joint stock association, agreed to take and pay for a large amount of stock in said association for the purpose of erecting public and other buildings in the city of Wheeling, to be used for such purposes as the said association or board of trustees may from time to time order and direct; said association to be under the management of its trustees,

to be appointed by the stockholders as is hereafter directed, and to be called the Odd Fellows' hall association; now, therefore, in order to enable the said persons and their associates to carry into effect their purposes aforesaid:

Sec. 1. Be it enacted, that the said John Hamilton, Finley A. Burk, James M. Todd, Norman G. Marsh, Jacob Berger, Charles Ditmar, William M. Berryhill, George Mendel, Isaac Cotts, William Y. Taylor, Frederick A. Brentlinger, Henry Sharp, John Pfarr, William Klinkler, and their associates, be and they are hereby constituted a body politic and corporate by the name of the Odd Fellows' hall association; by which name they shall have perpetual succession, may sue and be sued, plead and be impleaded; contract and be contracted with, by simple contract or specialty; have and use a common seal; purchase, take, hold, use and grant estate, real and personal; appoint officers and agents, prescribe their powers, duties, and liabilities; take bond and security from any of them, and fix and pay their compensation; and make ordinances, by-laws and regulations for the government of its council, board, officers and agents, and the management and regulation of its property and business; *provided*, that the stock of the said association shall not be less than ten thousand dollars nor more than thirty thousand dollars, which shall be divided into shares of forty dollars each.

Sec. 2. A general meeting of the stockholders for the adoption of by-laws for the government of the association and for the election of a board of trustees, shall be held in the city of Wheeling as soon after the passage of this act as shall be convenient, at such time and place as the said John Hamilton, Finley A. Burk, James M. Todd, Norman G. Marsh, Jacob Berger, Charles Ditmar, William M. Berryhill, George Mendel, Isaac Cotts, William Y. Taylor, Frederick A. Brentlinger, Henry Sharp, John Pfarr, William Klinkler, or a majority of them, shall appoint, and annually thereafter. The stockholders in general meeting may make any by-laws, regulations and orders respecting the affairs of the association, not inconsistent with the constitution or laws of this state or of the United States.

Sec. 3. The capital stock of the association shall be deemed personal estate to every intent, and may be transferred on the books of the association in such manner as the by-laws shall prescribe.

Sec. 4. The stockholders may, in general meeting, by a by-law, prescribe the number of which the board of trustees shall consist, but unless a different number be so prescribed there shall be five trustees,

by which board the affairs of the association shall be managed, and be elected by the stockholders, by ballot, in general meeting, annually at such time as they shall by their by-laws appoint; but should the trustees not be elected in any year on the day appointed for the purpose, this corporation shall not for that cause be dissolved; but the trustees in office shall continue in office until a new election be thereafter effected, as may be provided by the by-laws.

Sec. 5. The trustees, or a majority of them, shall choose by ballot a president, vice-president, secretary, treasurer, and such other officers or agents as they shall deem necessary; and shall have power to make such contracts as they may consider conducive to the interests of the association, and to require the subscribers to the stock of the association to pay in the stock by them severally subscribed for, to the treasurer or such other person or persons as they shall for that purpose appoint, at such times and in such installments as they shall fix and specify.

Sec. 6. When any stockholder shall fail to pay any subscription or installment due to said association, when thereto lawfully required, it shall be lawful for said association to recover judgment for the amount so due, in any court of record within this state or any other state, on motion, on giving such stockholders ten days' notice of such motion; or in case the treasurer of said association shall fail to account for and pay over any money or other thing belonging to said association, when thereto lawfully required, it shall be lawful for said association, in like manner and on the like notice, to recover judgment against such treasurer and his securities, their executors or administrators, jointly, for such amount as the said treasurer shall be found indebted to said association.

Sec. 7. None but stockholders shall be eligible as trustees, who shall be residents of Ohio county, West Virginia. Vacancies in the board of trustees occasioned by the death, resignation, removal from the county of Ohio, or by legal disability of any trustee, may be filled by the remaining trustees.

Sec. 8. There shall be not less than five stockholders. The presence of a majority in interest of the stockholders shall be necessary to constitute a general meeting. The presence and vote of the stockholders may be in person or by proxy, but such proxy to be legal must be in writing and in such form as the by-laws shall provide. One week's notice at least shall be given of all general or special meetings of the stockholders, by advertisement in some newspaper printed in

the city of Wheeling, or by posting the same at the north front door of the court house of Ohio county in the city of Wheeling, West Virginia. At all meetings of the stockholders of said association each stockholder shall be entitled to one vote for every share of stock owned by him; such vote to be given either in person or by proxy.

Sec. 9. Leases, contracts, sales, deeds and conveyances, respecting the real estate of the association, when duly authorized by the board of trustees in general meeting, may be executed, acknowledged for record and delivered on behalf of the association by the president or any other person especially authorized by the said board of trustees.

Sec. 10. The stockholders may at any time in general meeting resolve to discontinue the business of the association, the majority of the capital stock being represented and voting in favor of such discontinuance; and may divide the property and assets that may remain after paying all debts and liabilities of the association. Notice of such resolution shall be immediately given by advertisement in some newspaper of general circulation, published near the principal office or place of business of the association, once in each week for four successive weeks at least, before any dividend of the capital shall be made; and the said resolution, together with the certificate of the publisher of the newspaper in which the notice was published, shall be certified by the president, under his hand and the common seal of the association, to the secretary of state. The secretary of state shall file the same in his office, and shall issue a certificate under his hand and the great seal of the state, reciting such resolution and certifying that the said notice was duly published. As soon as practicable after such resolution is passed, the stockholders shall cause ample funds and assets to be set apart, either in the hands of trustees or otherwise, to secure the payment of all debts and liabilities of the association; and any creditor who supposes his claim not to be sufficiently secured thereby, whether such claim be then due or thereafter to become due, may, on bill in chancery, if sufficient cause therefor be shown, obtain an injunction to prevent the distribution of the capital and a decree against any stockholder for the amount of the capital received by him; and, if necessary or proper in the case, the court may appoint a receiver to take charge of and administer the property and assets of the association.

(Senate Bill No. 202.)

CHAPTER 38.

AN ACT to amend and re-enact section twenty-two of chapter one hundred and thirty-seven, being serial section four thousand one hundred and twelve of the code of West Virginia:

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor, February 22, 1913.)

SEC.

22. Fees of jailer in civil and criminal cases.

Be it enacted by the Legislature of West Virginia:

That section twenty-two of chapter one hundred and thirty-seven, being serial section four thousand one hundred and twelve of the code, be amended and re-enacted so as to read as follows:

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

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

For each person sentenced to work upon the county roads, the jailer may be allowed the sum of ten cents in addition to the amount hereinbefore authorized to be paid by the county court, for each day such person is employed on the county road and kept and supported by such jailer, outside of the county jail for said purpose of working the roads.

Upon the affidavit of the jailer, the county court shall allow him, out of the county treasury, the amount actually paid for fuel, necessary in heating the jail.

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

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

(Senate Bill No. 177.)

CHAPTER 39.

AN ACT to amend and re-enact sections one and two, respectively, of chapter fifty-one of the acts of the legislature of West Virginia passed February eleventh, one thousand nine hundred and five, limiting the amount of indebtedness of counties, cities, school districts and municipal corporations.

(Passed February 20, 1913. In effect from passage. Approved by the Governor February 24, 1913.)

SEC.

1. Limit of indebtedness.

Be it enacted by the Legislature of West Virginia:

Sec. 1. No county, city, school district or municipal corporation, except in cases where such corporations have already authorized bonds to be issued, shall hereafter be allowed to become indebted, in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness; nor without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt, and the principal thereof within and not exceeding thirty-four years; *provided, however*, that any city or municipal corporation of one thousand inhabitants or more is hereby authorized and allowed to become indebted, notwithstanding anything in this act to the contrary, in an additional sum not to exceed two and one-half per centum on the value of taxable property therein, ascertained as aforesaid, for the purpose of grading, paving, sewerage and otherwise improving the streets and alleys of said city or municipal corporation—the term “sewerage” being used in a comprehensive sense so as to include mains, laterals, connections, traps, incinerating and disposal plants, and other necessary and convenient accessories to a modern, sanitary and efficient sewerage system; and, *provided, further*, that no debt shall be contracted under this section, unless all questions connected with the same shall have been first submitted to a vote of the people, and have received three-fifths of all the votes cast for and against the same; and, *provided, further*, that in all cases where like authority

is given to such cities or municipal corporations by their charters this section shall not apply.

Sec. 2. This act shall take effect from passage.

(Senate Bill No. 83.)

CHAPTER 40.

AN ACT to amend and re-enact section two of chapter sixty-six of the acts of one thousand nine hundred and nine, relating to the rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts and municipal corporations.

(Passed February 8, 1913. In effect ninety days from passage. Vetoed by the Governor February 14, 1913. Passed over Governor's veto February 14, 1913.)

SEC.	2. County court shall ascertain condition of fiscal affairs; publish	SEC.	notice; lay levy; may lay additional levy for road purposes.
------	--	------	--

Be it enacted by the Legislature of West Virginia:

That section two of chapter sixty-six of the acts of one thousand nine hundred and nine be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 2. At such sessions 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 collectable 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

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 year, the assessed value of the property assessed by the board of public works, the rate of such levy proposed on the property 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 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 objections as herein provided, shall not preclude him from pursuing any legal remedy, necessary to correct any levy made 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 shall 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 one thousand nine 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 one hundred dollars of said valuation; *provided, further*, that the county court of any county may in addition to the levies hereinbefore provided for, lay a levy on the taxable property of the county not to exceed five cents on each one hundred dollars of said valuation for the purpose of improving, constructing, maintaining or acquiring any public road, highway or turnpike; and said levy may be in excess of the maximum limit hereinbefore provided; and, *provided, further*, that in any county which has not availed itself of the right to levy five cents or any part thereof on each one hundred dollars of valuation of property in said county, as provided in the last preceding provision of this act, there may be levied in addition to all other levies and in excess of the said maximum limit, not to exceed ten cents upon every one hundred dollars in valuation on the property in any magisterial district, and the amount so raised shall constitute a district fund to be applied to the permanent improvement of the highways of the district wherein it was raised; *provided*, 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 one thousand nine 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 one thousand nine hundred and four bears to the aggregate thereof in the year for which such levy is to be made; as, for instance, to illustrate: In any such case, where the said aggregate in such year is double that of the year one thousand nine 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; and, *provided, further*, that the county court of any county having no debt. bonded or funded, or otherwise, may lay a levy in addition to said maximum and other special levies, not exceeding twenty cents of each one hundred dollars of valuation on the taxable property of the county,

to be called a special bridge levy, for the purpose of building and repairing bridges, and the fund arising from such bridge levy shall be used for the purpose herein designated and no other.

(Senate Bill No. 84.)

CHAPTER 41.

AN ACT to enact chapter forty-three-a of the code of West Virginia, creating a system of roads for the state, establishing a state road bureau, providing for instruction in road building, for the preparation of road materials, for assistance to county road authorities, and for the use of prison labor on the public roads; and amending in other respects the laws of the state relating to roads.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor, February 26, 1913.)

- | | |
|---|--|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. State road bureau established; consists of. 2. Governor shall appoint civil engineer as professor in charge of railway and highway department at the university; term. 3. Salary of chief road engineer and members of bureau. 4. Duty of state road bureau. 5. Office and headquarters of chief road engineer. 6. State road bureau shall organize and adopt rules; bureau under control of governor. 7. Bureau to have general supervision of all public roads; duty of the bureau. 8. Shall compile statistics, disseminate information, etc. 9. Materials used upon public roads and bridges must be approved by chief road engineer. 10. Duty of chief road engineer. 11. Shall select assistants, how; compensation. 12. How prison labor may be secured by county. 13. County court having decided to construct roads in accordance with plans may apply to state board of control to send convicts to such county to work on the roads, how. 14. Board of control and assistant warden of penitentiary may designate prisoners to work. 15. Contract to be in writing. 16. Annual report of state road bureau 17. County road engineers shall visit office of state road bureau; expenses, how paid. | <p>SEC.</p> <ol style="list-style-type: none"> 18. Authority of state road bureau to establish and maintain stone quarries, etc. 19. Prison force to be guarded while working on road; number; compensation, etc. 20. Warden to provide quarters for convict labor. 21. Convicts forming state road force to be transferred; how expenses shall be paid. 22. Prison road force shall work under direction of chief engineer; any other question arising shall be decided by governor. 23. Convicts to be provided for by warden. 24. Sick prisoners provided for. 25. County court desiring to obtain convict labor shall agree to supply material, etc. 26. As to contracts between state and persons for employment of convict labor. 27. How contract may be made by local road authorities to secure convict labor. 28. If convict escape, punishment. 29. Warden may discharge convicts when term shall have expired. 30. Construction as to giving county aid. 31. Governor to designate physician to inspect camp; duty of physician. 32. Authority conferred, and duties to be performed by chief engineer. 33. No tolls shall be charged. 34. Conflicting acts repealed. |
|---|--|

Be it enacted by the Legislature of West Virginia:

Sec. 1. There is hereby established a state road bureau. It shall consist of the following persons: The professor in charge of the railway and highway department of the state university, for the time being, who shall be the chief road engineer and the chairman of the road bureau; the director of the experimental station at the state university for the time being, and two additional members of said bureau, who shall be qualified voters of the state, and shall be appointed by the governor to serve during his will and pleasure. The said two additional members shall not be both appointed from the same political party.

Sec. 2. The governor shall appoint some qualified and experienced civil engineer to be the professor in charge of the railway and highway department at the state university, whose duties as the head of such department, other than those prescribed in this act, shall be prescribed by the board of regents. He shall serve during the term of office of the governor appointing him and until his successor is appointed and qualified unless sooner removed.

Sec. 3. The said chief road engineer shall receive an annual salary of three thousand five hundred dollars, which shall be in full for all duties required of him by this act and by the board of regents; the two additional members of the said bureau shall each receive out of the state treasury ten dollars per day for so many days, not exceeding ninety days in any one year, as he may be employed in the duties of his office, and his actual expenses incurred in the discharge of his duties. The chief road engineer shall certify to the state auditor the amount due each member of the bureau, and the auditor shall issue his warrant therefor on the state treasurer.

Sec. 4. It shall be the duty of the state road bureau to supervise and to furnish information as to the location, construction and maintenance of all public roads in this state; to provide for giving instruction in road building and to supervise such instruction, and render assistance to the county road authority.

Sec. 5. Said chief engineer shall have his office and headquarters at the West Virginia university, and when not engaged in official duties required by the road laws of this state, shall give instruction in road building to the county road engineers, or other representatives of the several county courts, and perform such other duties as may be required of him by said bureau.

Sec. 6. As soon as possible after the first day of July,

one thousand nine hundred and thirteen, the said state road bureau shall assemble and organize and shall adopt such rules and regulations, not inconsistent with the law, as may be necessary and proper for carrying out the purposes for which it is created. The said bureau shall be under the control and supervision of the governor, who shall have authority to require of the said bureau and of each member thereof, such service as he may desire in connection with the public roads of the state.

Sec. 7. The said bureau shall have general supervision of all public roads so far as may be consistent with the authority over said roads, which is conferred on county courts by article eight, section twenty-four, of the constitution of West Virginia, and especially of all public roads with respect to which an agreement for such supervision may be made with the several county courts of this state; shall prescribe rules and regulations not inconsistent with the law, concerning the duties of county road engineers and their employes, and concerning all such public roads as may, under the provisions hereof, be under the supervision of the state road bureau, and as to such roads shall determine the methods of construction, improvement or maintenance. Immediately upon the making of such rules and regulations, copies thereof shall be printed and transmitted to the road officials affected thereby, and shall take effect ten days after they are made. It shall further be the duty of the state road bureau to see to the enforcement of all laws, rules and regulations relating to public roads and bridges, and especially their enforcement by all road officials; to aid the county road engineers and their employes in establishing grades and preparing suitable systems of drainage, and to advise with them as to the construction, improvement and maintenance of public roads and bridges in carrying out such arrangements as may be made respecting them with the several county courts; to cause plans, specifications and estimates to be prepared for the improvement of all such roads, and the construction and repair of bridges, when required to do so by the county road engineer; to investigate and determine the various methods of road construction adapted to the different sections of the state, and the best method of constructing, repairing and maintaining public roads and bridges.

Sec. 8. The said bureau shall compile statistics concerning the public roads and collect information in regard to them; shall gather and tabulate information and statistics relating to road building, improvement and maintenance, and disseminate such information

throughout the state by means of farmers' institutes, and such bulletins as may be issued by the college of agriculture and the commissioner of agriculture; shall cause public meetings to be held in each county under the general supervision and control of the chief road engineer, for the purpose of furnishing general information and instruction regarding the construction, improvement or maintenance of public roads and bridges, and concerning the application of all laws, rules and regulations relating to roads. Reasonable notice shall be given the county road engineer of the time and place at which any such meeting is to be held.

Sec. 9. All materials, of every kind, used upon any of the public roads and bridges of this state, whether under the direct control of the state road bureau or under an arrangement made by the said bureau with the county courts, shall first be carefully analyzed by the said bureau, and no such material shall be used in the construction or maintenance of any such road or bridge until approved in writing by the said chief road engineer.

Sec. 10. Said chief road engineer shall attend at the office, or branch office, of said bureau to the extent that the duties of his office may require, and when not otherwise engaged in the performance of his official duties, shall give instruction in road building, and shall perform such other duties as may be assigned to him by said bureau. Such instruction shall, as far as possible, be given at the West Virginia university.

Sec. 11. Said chief engineer, with the approval of the bureau, shall select such assistants as may be necessary for the purpose of carrying out the provisions of this chapter, and performing such other duties as may be required of him by the road law of this state. Such assistants shall be selected so far as possible from the students in the West Virginia university, receiving instruction in the experimental station, or the department of railway and highway engineering. Said bureau shall have authority to employ such clerical and other help as may be required and to fix the compensation of all assistants and employes.

Sec. 12. Whenever the county court of any county proposes to improve permanently any main traveled road, or part thereof, in their county, and desires to use prison labor thereon, it may apply to the said chief road engineer for a competent civil engineer to view the proposed road. Upon receipt of such application, the chief engineer shall send such county court a blank form for the purpose of eliciting from the said county court such information touching the proposed

road and improvement as he may desire, which blank form said county court shall fill out to the best of its ability and return to the chief engineer. If the chief road engineer shall be satisfied that the proposed improvement will be permanent and upon a main traveled road, and that the plans proposed by the local road authorities for such improvement are adequate and practicable, he, or one of his assistants, shall view said road or part thereof, proposed to be improved, and shall carefully prepare plans, specifications and estimates of the cost of its construction, with the materials agreed upon by the chief road engineer. A copy of said plans, specifications and estimates of cost shall be submitted to the county court and a copy filed in the office of said bureau. The expenses incurred by the chief engineer or his assistants in performing the duties required under this section shall be paid by the county whose local road authorities requested the same to be done.

Sec. 13. Whenever any county court shall have decided to construct or improve the said road, or any part thereof, in accordance with the plans and specifications made by the chief road engineer, and shall have agreed with the state road bureau respecting the location, construction and material of such road, which agreement shall be reduced to writing and recorded in the county clerk's office, then such county court may apply to the state board of control to send convicts to such county to be worked upon such road. Such application shall be in form prescribed by the board of control, and shall state the number of convicts desired, which shall not be less than ten, and the length of time for which the county court desires to contract. If the number of prisoners in the penitentiary available shall suffice to meet all the applications which may be before it, the board of control shall grant all of such applications which are satisfactory to the board. If the number of prisoners available shall not be sufficient to fill all such applications, the board of control shall file the applications, and fill them in the order in which they are received. The board shall, however, as far as possible, give equal service to all the counties making applications, subject, however, to the judgment of the board as to the merits of the respective applications. The board of control may, for good cause, refuse any or all such applications, in which event the cause of such refusal shall be specified to the applicant.

Sec. 14. The board of control, with the advice and assistance of the warden of the penitentiary, shall determine what prisoners therein confined may, with safety and convenience, be assigned to such work, selecting preferably such prisoners as are believed to be most trustworthy.

Sec. 15. Whenever any such application shall be granted by the board of control in its original or modified form, a contract in writing, based thereon, shall be entered into between the board of control and the county court making such application, which shall set forth the terms of the agreement based on such application.

Sec. 16. Said state road bureau shall make an annual report to the governor of the conduct and work of its office, and expenses thereof, and may recommend to the governor needed improvements in the public roads; and shall make such other reports as may be required by the governor. Said annual report shall show the quantity of earth and stone removed, and material manufactured and prepared; the number of miles of road under construction, and the number completed; the cost per yard of the construction of such road, and of the material prepared and used therein; and for the purpose of obtaining all necessary detailed information to be used in the preparation of such report, the said bureau may require of the local road authorities, in all counties in which work is done under arrangements with the state road bureau, such monthly reports as may be prescribed by the bureau. Said bureau shall cause to be prepared and filed in the office of the clerk of the county court of such county, and the state department of archives and history, copies of maps showing the location of all public roads and highways in the state; and the report herein provided to be filed with the governor shall be accompanied by a map or maps showing the location and improvements of all roads receiving state aid up to the time of the completion of said report. Copies of all maps and reports made and prepared by the bureau shall be kept in its office for public inspection.

Sec. 17. All county road engineers shall visit the office of the state road bureau at least once in every year, and shall receive instructions in road building for at least ten days; and the bureau may fix the time or times when said annual visits may be made by such county road engineers for the purpose of receiving such instructions; and the actual expenses incurred by said county road engineers in making such visits shall be paid out of the county treasury of each county when allowed by the county court.

Sec. 18. The state road bureau has authority, under proper rules and regulations, to establish and maintain stone quarries, crushers and brick kilns at places in the state where suitable material may be obtained, to be furnished to the counties desiring to use the same in constructing and maintaining public roads and bridges, and to the state and counties for public buildings, and for any other purpose for which

the state or county may desire to use such stone or brick. No brick kilns shall be established until the materials available therefor have been carefully analyzed by the bureau, and approved in writing by the chief engineer, and no material shall be used in the manufacture of brick or the building or improving of roads until after like analysis and approval. In selecting the location for said brick kilns due regard shall be had to transportation facilities. The state convict road force may be employed by said bureau at and about said kilns in the manufacture of brick under the same rules and regulations provided herein for working said force on the public roads.

Sec. 19. The state prison road force shall be guarded when working on the roads of the state, and in making road materials, by guards detailed by the warden of the penitentiary; *provided*, that the guards so detailed shall not exceed two guards to every twenty convicts so employed on the roads. The wages of every such guard shall be fixed by the warden of the penitentiary but shall not exceed fifty dollars per month and board. The warden of the penitentiary, his assistants or guards, at the request of the state road bureau, may so far as practicable make trustees of the convicts of said state prison road force employed under this act.

Sec. 20. The warden of the penitentiary shall provide suitable and moveable quarters, said quarters to be built, so far as can be, with convict labor; and shall supply all necessary cooking utensils, beds and bedding and wagons for transporting the convicts, and camp fixtures for the camps or stations of said prison and road force.

Sec. 21. All convicts forming the state prison road force shall be transferred to and from the jails and the penitentiary, and the expense of such transfer shall be paid in the same way as is now provided by law for transporting convicts to the penitentiary, except that the prisoners of the state prison road force may be transported anywhere in the state, under the direction of the warden of the penitentiary.

Sec. 22. Said state prison road force shall work under the direction and control of said chief engineer, or such assistant as may be selected by said chief engineer, who shall be a civil engineer or person well versed in road building; and the said road force shall do all such proper and necessary work on such roads as the engineer having direction and control of the same may direct for its proper construction and improvement. Should any question arise as to what work is included in road building improvement, or should be done and performed by

such state prison road force, or the place where the same should be performed, or the number of convicts to be employed, such question shall be decided by the governor.

Sec. 23. The warden of the penitentiary shall provide in the same manner he now provides for convicts in the penitentiary all clothing, food, quarters and guards for the state prison road force when at work on the public roads of any county in the state; *provided*, that the state road bureau may require any county to pay for the food and quarters for the road force when the work being done by such road force in such county is in the judgment of said board chiefly of local importance.

Sec. 24. Whenever any prisoner working on county roads or bridges shall become sick, or shall be disabled by accident or otherwise, he shall be attended by the physician employed by the county court to take care of the poor in the county, on whose roads the prisoner is working at the time, or by the jail physician in such county, and the fees of such physician shall be paid by the county at such sum as may be agreed by the county court with such physician. In any case of emergency, the physician who can be most conveniently reached shall attend such prisoner until the physician for the poor or the jail physician can attend, and the reasonable fees of the physician first called shall be paid by the county court of such county.

Sec. 25. Any county court desiring to obtain convict labor on its roads, under the provisions of this act, shall agree to supply all necessary material to be approved by said chief road engineer, tools and teams required by the plans and specifications of the chief engineer.

Sec. 26. After the expiration of all contracts now existing between the state and any person, firm or corporation, for the employment of convict labor at the penitentiary, only such contracts shall be renewed or new contracts made under the provisions of law as may be necessary to employ all convicts not otherwise employed under the provisions of this act.

Sec. 27. If the local road authorities of any county propose to improve permanently any public road or part thereof, and desire to avail of the services of the chief engineer under the terms of this chapter, and to have the benefit of this chapter creating a state convict road force, shall prefer to make such improvements by contract, then the chief engineer may, upon request, furnish such local county road authorities, in advance of the letting of the contract, an estimate of the number of convicts available for use upon such proposed permanent road improvements, providing that such number of convicts to be so

supplied by the said public highway bureau shall not exceed such number as that, estimating their labor at one dollar per day, per convict, exclusive of Sundays, and a reasonable allowance for bad weather will amount to a contribution on the part of the state of more than forty per cent of the total contract price of such proposed improvements.

The convicts so employed upon construction work shall be and remain under the direct supervision and care of the warden of the penitentiary; and may be worked only for such hours and under such humane and reasonable rules, regulations and conditions as may be jointly prescribed and enforced by the warden of the penitentiary and the state public highway bureau, which said hours, rules, regulations and conditions shall be stated and promulgated in advance of the letting of the contract.

Sec. 28. If any convict escape from the state convict road force, he shall be punished as now prescribed by law for convicts escaping from the penitentiary.

Sec. 29. The warden of the penitentiary shall have power to discharge any of said prisoners working on said state convict road force, wherever they may be in the state, when his term shall have expired; and section twenty-two of chapter one hundred and sixty-three of the code of West Virginia shall apply to all convicts working on said state road force.

Sec. 30. Nothing herein contained shall be construed as giving to any county any aid in the location, construction and maintenance of its public roads, except as herein specifically provided.

Sec. 31. It shall be the duty of the governor to designate some competent physician, or physicians, to make monthly inspection of all camps where convict road force is employed; and it shall be the duty of such physician to make monthly, a thorough investigation of the sanitary conditions of such camps, and make a regular report of each inspection to the governor, together with such recommendations as he may deem necessary; and to furnish a copy thereof to the warden of the penitentiary, to the state board of health, and to the local board of health of the county in which such camp may be located. Said physician for his services shall receive the same allowances, and be paid in the manner as provided in section sixteen of this chapter.

Sec. 32. Wherever, in chapter fifty-two of the acts of one thousand nine hundred and nine, of the West Virginia legislature, reference is made to, or authority given, or duties required of, the "commis-

sioner," or "the commissioner of public roads," which office was abolished by chapter fifty-nine of the acts of one thousand nine hundred and eleven, of the West Virginia legislature, the said authority is hereby conferred on, and said duties shall be performed by, the chief engineer in charge of the location and construction of public roads and highways created by this chapter.

Sec. 33. No tolls shall be charged and collected on any road receiving state aid of any description.

Sec. 34. All acts and parts of acts in conflict with this chapter are hereby repealed.

(Senate Bill No. 85.)

CHAPTER 42.

AN ACT to amend and re-enact section fourteen-a-one, of chapter one hundred and forty-five of the code, relating to the sentencing to hard labor of convicts in the county jail.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

<p>SEC. 14-a-1. Male person over sixteen years</p>		<p>SEC. convicted, may be sentenced to work on public roads.</p>
--	--	--

Be it enacted by the Legislature of West Virginia:

That section fourteen-a-one of chapter one hundred and forty-five of the code be amended and re-enacted as follows:

Sec. 14-a-1. Whenever, hereafter, any male person over the age of sixteen years shall be convicted of an offense the punishment of which by law, is confinement in the county jail, the court shall sentence such person to work on the public roads of the county under the supervision of the county road engineer or other official to be designated by the county court, during the term of his imprisonment and, thereafter, until his fine and costs are paid by crediting such person on such fine and costs with the amount allowed by law for such labor, unless, for reasons appearing to the court and entered upon the record, the court omits from the sentence that part of the penalty requiring such person to work on the public roads of the county. This section shall not apply to prisoners confined in jail under sentence in a city or municipal court, where the ordinances of said city or municipality require prisoners to work on the streets.

(Senate Bill No. 86.)

CHAPTER 43.

AN ACT authorizing justices of the peace to sentence persons who may be convicted before them of crime, and sentenced to imprisonment in the county jail, and to pay a fine, or where a fine is imposed without imprisonment, and such persons are committed to jail in default of payment thereof, to labor on the public roads of the county under the supervision of the county road engineer.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

Sec.

1. Justice of the peace authorized to sentence male persons over sixteen, convicted, to work on roads; penalty if escape and re-

Sec.

captured; sheriff to employ guards; how paid; deduction of sentence for faithful work; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That all male persons over the age of sixteen years, who may be convicted before a justice of the peace of crime, of which such justice has jurisdiction, and sentenced by such justice of the peace to imprisonment in the county jail, and to pay a fine and costs, shall be sentenced by such justice of the peace to labor on the public roads of the county, under the direction of, and with those worked by the county road engineer, or other representative of the county court having such work in charge, during the time of such imprisonment, and until said fine and costs are satisfied; and, whenever a fine and costs are imposed on such person, without imprisonment, and said fine and costs are not paid, such justice of the peace shall sentence such person to labor on the public roads of such county, until such fine and costs are satisfied, by crediting such person on said fine and costs the amount allowed by law for such labor; and such person so sentenced by the justice of the peace shall labor on the public roads under the direction of the county road engineer, or other officer having charge of the roads under the supervision of the county court. *Provided, however,* that such justice of the peace before whom any such prisoner is convicted, may, for good reasons appearing to him and entered in his docket, omit from the sentence that part of the penalty requiring such person to work on the public roads of the county.

Whenever any such person shall escape, while working on said public road, and be re-captured, he shall be taken by the officer having him in custody before a justice of the peace in the county where such

escape was made, who shall, after a trial and upon conviction for such escape, sentence him to labor on the public roads of said county for not less than sixty days nor more than six months, and to pay the cost of making arrest, and including all cost of trial, and in default of payment shall sentence said prisoner to work out said cost on the said public roads, as herein provided.

The sheriff, with the approval of the county court, shall employ a sufficient number of persons to guard such prisoners, not to exceed one for every ten prisoners so employed on such county roads, and the wages of such guards shall be paid out of the county treasury, when allowed by the county court, and shall not exceed two dollars and fifty cents per day for each guard.

Every person sentenced to labor on the public roads under the provisions of this act, and who faithfully complies with all the rules and regulations which may be prescribed by the county road authorities, governing the working of prisoners on the public roads, shall be entitled to a deduction of his sentence of five days from each month.

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

(Senate Bill No. 87.)

CHAPTER 44.

AN ACT to permit prisoners charged with misdemeanor and unable to furnish a recognizance, or bail bond, or not let to bail, with the consent of the judge of the circuit or criminal court, to work on the public roads of the county, and allow such prisoner credit therefor on any sentence thereafter imposed for such crime, of which he is charged; and in case of acquittal, allowing him pay for his labor.

(Passed February 10, 1913. In effect ninety days from passage. Approved by the Governor February 11, 1913.)

SEC.
1. Person charged with misdemeanor and unable to give recognizance, or who is refused bail, may elect to labor on public

SEC.
roads; court may enter order; if convicted what to be done; sheriff to employ guard; faithful service.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That a person charged with misdemeanor, who is unable

to furnish a recognizance or bail bond, with satisfactory sureties, according to law, or who is refused bail, may after being committed to jail elect to labor on the public roads of the county in which such crime is alleged to have been committed; and in such case the circuit or criminal or intermediate court of such county, or the judge thereof, in vacation, may, in its discretion, enter an order in the order book of such court permitting such person to labor on the public roads of said county, under the supervision of the county road engineer, or other officer to be designated by the county court, until such time as may be fixed by such court or judge thereof, in vacation.

If, at his trial, such person is convicted and sentenced to imprisonment in the county jail, or to labor on the public roads of such county, he shall be credited on his term by the number of days he has labored on such public roads; if fined, he shall be credited on the amount of his fine and costs with one dollar per day for each day he labored on such road; and if acquitted he shall be paid fifty cents per day for each day he labored on said public roads, to be paid out of the road fund of the district in which such person labored, when allowed by the county court.

The sheriff, with the approval of the county court, shall employ a sufficient number of persons to guard such prisoners, not to exceed one guard to every ten prisoners so employed; and the wages of such guard shall be paid out of the county treasury, when allowed by the county court, and shall not exceed two dollars and fifty cents per day for each guard.

All prisoners who may labor on the public roads, under the provisions of this act, and who faithfully comply with all the rules and regulations which may be adopted by the county road authorities, governing the working of prisoners on the public roads, shall be entitled to five days' credit from each month on any jail sentence that may be imposed upon him in the event of his conviction.

(Senate Bill No. 88)

CHAPTER 45.

AN ACT authorizing county courts to make appropriations out of the road fund of the several magisterial districts in the hands of the sheriff, to pay the expenses and for work done by and under the authority and supervision of the county road engineer,

or other representative of the county court having the said work in charge during the recess of the court; authorizing the county road engineer or other representative of the county court having the said work in charge, to issue orders on the sheriff, payable to such persons entitled to be paid for such services; authorizing the payment of the same by the sheriff; and requiring the county road engineer or other representative of the county court having the said work in charge, and sheriff, to make reports to the court.

(Passed February 10, 1913. In effect ninety days from passage. Became a law without the approval of the Governor.)

Sec. 1. County court may make appropriation to the several magisterial districts, subject to order drawn by road engineer on sheriff;

Sec. forms: reports to be made in writing: duty of county clerk. 2. Acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the county court, for the purpose of meeting and taking care of the necessary charges and expenses which may be incurred by the county road engineer or other representative of the county court having the said work in charge, during the recess of such court, in performing the duties required of him under the road laws of this state may, at each regular term of the court, set apart and appropriate out of the road fund in the hands of the sheriff belonging to the several magisterial districts of the county, and not otherwise appropriated, funds sufficient to pay the said expenses in each district in which work may be done and expenses incurred during the recess of the court. Said appropriation to be based on a written estimate to be certified and furnished to the court by the county road engineer or other representative of the county court having the said work in charge, who will draw his order on the sheriff, in favor of the person to whom the money is due, and set forth fully in the face of the order the work done, or services performed, and on the reverse side of said order the sheriff shall issue his check, in favor of the person shown by the said order to be entitled to the money.

The form of said order and check shall be as follows:

No., W. Va.,, 191...
OFFICE COUNTY ROAD ENGINEER,
..... COUNTY, WEST VA.

(Across left-end of order): DISTRICT ROAD FUND.

The sheriff will pay to the order of, \$.
..... Dollars.
For

.....
out of the road fund of district, appropriated by order
of the county court,, 191...

.....
County Road Engineer.

(REVERSE SIDE.)

No....., W. Va.,, 191..

..... COUNTY BANK.

(Across left-end of check): COUNTY ROAD FUND.

Pay to the order of, \$.....

..... Dollars.

In settlement of order on
reverse side of this check.

.....
Sheriff.

The county road engineer or other representative of the county court having the said work in charge, shall, at each successive regular session of the court make a report in writing to the court showing what orders he has drawn on the sheriff, under the provisions of this act, to whom payable, and for what service; and the sheriff shall likewise, at each successive regular session of the county court, make a report to the court showing what orders, drawn by the county road engineer, or other representative of the county court having the said work in charge, under the provisions of this act, have been paid by him. Said reports shall be audited by the county court, filed and recorded in the minute book, or appropriation record, of said court; and the sheriff shall be credited with such orders so paid.

Said county road engineer, or other representative of the county court having the said work in charge, is prohibited from issuing orders in excess of the amount appropriated by the county court out of each district road fund, and if he does issue any orders in excess of said appropriation, or improperly issue any orders, which are paid by the sheriff, as herein provided, said county road engineer shall be liable for same on his official bond.

Nothing herein contained shall be construed as authorizing the payment to any road contractor, or contractors, of any sums which may be due to such contractor, or contractors, under the provisions of chapter fifty-two of the acts of one thousand nine hundred and nine, of the West Virginia legislature, until the estimate provided by law has been made and certified by the county road engineer, or other

representative of the county court having the said work in charge, and approved by the county court.

The county road engineer, or other representative of the county court having the said work in charge, is prohibited from receiving or disbursing any money to any person or persons, contractor or contractors employed by or working under his authority, directly or indirectly.

The clerk of the county court is authorized and directed to have printed and furnished to the county road engineer, or other representative of the county court having the said work in charge, the form of order and check herein prescribed selecting different colored order and check for each magisterial district. Said clerk shall have printed two stubs with each order and check, one of which is to be retained by the county road engineer, or other representative of the county court having the said work in charge, the other to be detached from the order and retained by the sheriff in his office.

The orders paid by the sheriff, as herein provided, shall be accepted and credited by the commissioners when making settlement of the district road fund accounts of such sheriff.

Sec. 2. All acts and parts of acts so far as they are in conflict with this act are hereby repealed.

(Senate Bill No. 4.)

CHAPTER 46.

AN ACT to authorize the holding of an election in any magisterial district, through which the Shenandoah river runs, for the purpose of voting on the issuance of bonds of such magisterial district, for building a bridge across such river and the approaches and necessary roads thereto; providing for a levy on the taxable property within such magisterial district to pay the principal and interest of such bonds; for the issuance and sale of such bonds, and for the construction of such bridge, its approaches and necessary roads.

(Passed February 15, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC.

1. Freeholders may petition for bridge; duty of county court.
2. Election to be held to vote on bridge question, when.
3. Time of election to be fixed; places of voting; who entitled to vote.
4. Publication of order.
5. Election, how held.

SEC.

6. Vote necessary to authorize issuing of bonds.
7. Bonds.
8. Bonds disposed of at public or private sale.
9. County court shall lay bridge levy.
10. Tolls may be imposed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. On the petition of fifty or more freeholders who are residents and voters in any magisterial district through which the Shenandoah river runs, to the county court of such county, or tribunal acting in lieu thereof, in which such magisterial district is, requesting the erection of a bridge across such river, of such material and at such point within such district as may be designated in such petition, the county court, or tribunal acting in lieu thereof, of such county, shall obtain from the county engineer an estimate of the probable cost of such bridge; and it is hereby made the duty of such county engineer immediately to ascertain and report the probable cost of such bridge, of the material and at the point specified in such petition, and to return with his report of such probable cost, plans and specifications for such proposed bridge, and of the necessary approaches and roads thereto and therefrom, and the probable cost thereof. The county court may employ a competent bridge engineer to assist the county engineer in making the estimates and drawing the plans and specifications required hereby.

Sec. 2. On the incoming of such report, if the estimated cost of such bridge, including the approaches and necessary roads, plus the total bonded or other indebtedness of such county, and plus the total bonded or other indebtedness of such magisterial district, and plus the total bonded or other indebtedness of all school districts and independent school districts in such magisterial district, and plus the total bonded or other indebtedness of all the municipal corporations within such magisterial district, does not exceed five per centum on the value of the taxable property in such magisterial district, to be ascertained by the last assessment for state and county purposes previous to the incoming of such report, the county court of such county, or tribunal acting in lieu thereof, shall forthwith enter an order calling an election to be held within such magisterial district, in not less than thirty nor more than sixty days from the entry of such order, for the purpose of voting on an issue of bonds of such magisterial district to pay for such proposed bridge, approaches and roads. Such order shall

specify the particular purpose or purposes for which said bonds are to be issued, their denomination, amount, date, rate of interest, when and where payable, and such other details as may be considered desirable; *provided*, that said bonds shall not bear more than six per cent interest per annum, and shall be payable within and not exceeding thirty-four years from the date thereof. The court may also provide in said order for the payment of interest thereon semi-annually, and for the redemption thereof before maturity.

Sec. 3. Such order shall further appoint the date on which said election is to be held, and the places of voting shall be the same as those used at the last general election for state and county offices. At such election, the qualified voters residing in such magisterial district shall be entitled to vote, and no other persons, and no registration of voters shall be required.

Sec. 4. Such order shall be published once a week for four successive weeks in two newspapers of opposite political parties, if such be published in said district; if not, then in some newspaper of general circulation in said district; and a copy thereof shall be posted at the front door of the court house of said county for at least thirty days before said election.

Sec. 5. Such election shall be provided for, conducted and the result ascertained and declared as provided by law for holding and ascertaining and declaring the result of general elections; and the ballots to be voted at such election, after containing a statement of the amount and kind of bonds to be issued, and the purpose or purposes for which the proceeds thereof are to be used, shall contain the words, "for the bond issue" and the words "against the bond issue."

Sec. 6. If at such election not less than three-fifths of all votes cast for and against said bond issue shall be cast for said bond issue, the county court of said county shall proceed with the construction of such bridge and its approaches and necessary roads, in accordance with the plans and specifications of the county engineer, as aforesaid: or, they may receive and accept bids for the construction thereof, in whole or in part, by contract, awarding such contract to the lowest and best bidder therefor, in the judgment of said court. The county court shall take from such contractor a bond, with security to be approved by such court, in a penalty equal at least to the amount of the contract, conditioned for the faithful performance of all of the terms of said contract.

Sec. 7. The bonds referred to in this act shall be payable to bearer

and signed "The..... magisterial district of county, West Virginia," by the president of the county court of said county, and attested by the clerk of the county court; and the corporate seal of the county court shall be affixed thereto.

Sec. 8. The county court shall dispose of the bonds at public or private sale, and may advertise for sealed bids therefor, or for any part or parts thereof; but said bonds shall not be sold at less than par. The proceeds of such bonds shall be used to pay for said bridge, the approaches and necessary roads.

Sec. 9. The county court of any county wherein bonds shall have been issued under this act, shall, at its levy term in each year, lay a levy to be known as the "bridge levy" on all of the taxable property in the magisterial district wherein such bridge is located, sufficient to pay the interest on such bonds annually or semi-annually, and to create such a sinking fund as will be sufficient to pay the principal of said bonds at their maturity.

Sec. 10. The county court of such county may impose such tolls on persons, vehicles and stock using such bridge as in its judgment may be just and proper; and shall arrange for the collection thereof by appointing a keeper, or in such other manner as may seem best; and all revenue derived therefrom shall be paid into a sinking fund for the liquidation of the bonds hereinbefore provided for.

(House Bill No. 11.)

CHAPTER 47.

AN ACT fixing the number of terms and the time for holding the circuit courts in each of the counties of the twelfth judicial circuit of West Virginia.

(Passed January 31, 1913. In effect ninety days from passage. Approved by the Governor February 4, 1913.)

<p>SEC. 1. Number of terms of circuit court. 2. Time for holding in Webster and Upshur counties.</p>		<p>SEC. 3. Inconsistent acts repealed.</p>
--	--	--

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 court of the two counties of the twelfth judicial circuit, and the terms of each of the said counties shall commence and be held as provided in section two of this act.

Sec. 2. For the county of Webster, on the third Tuesday in January, the fourth Tuesday in May and the third Tuesday in September, of each year.

For the county of Upshur on the second Monday in March, the first Monday in July and the second Monday in November, of each year.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 90.)

CHAPTER 48.

AN ACT to empower the judge of the circuit court of the twenty-third judicial circuit to employ a competent stenographer, defining his duties, and providing the manner of his payment, and to appoint a page for said court, and providing for his payment.

(Passed February 15, 1913. In effect from passage. Approved by the Governor February 19, 1913.)

SEC.

1. Judge authorized to appoint a stenographer; his duty; his title; must qualify.
2. Compensation, payable out of county treasury.
3. Duty of stenographer.
4. Compensation in criminal cases how paid; in civil cases who shall pay.

SEC.

5. Stenographer authorized to take affidavits, administer oaths and take acknowledgments.
6. Judge may appoint a page, to be paid and how.
7. Acts inconsistent with this act shall not apply.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The judge of the circuit court of the twenty-third judicial circuit is hereby empowered and authorized to employ and appoint a competent stenographer to take and report the proceedings had and the testimony given in any criminal prosecutions or civil suits, or in any other proceedings had in said court, including the taking of testimony before the grand jury of said court for the use of the prosecuting attorney or said court; and in proceedings before the judge of said court in vacation, and otherwise to aid said judge in the performance of his official duties. He shall be authorized to attend the sessions of said grand jury, but shall retire from said sessions when directed by the foreman or a majority of the grand jury when they desire to consult or to vote upon any matters before them. Said employment and appointment may be made by said judge by an order entered in the said circuit court on the law side of said

court, and the stenographer so appointed shall be designated as the "official reporter of the twenty-third judicial circuit." He shall be duly qualified under oath.

Sec. 2. Said official reporter shall receive such compensation as the judge of the said court shall in his discretion determine and allow, which shall be certified by said circuit court to the county court of the county in which such services are rendered, and the same shall be paid by said county court out of the county treasury.

Sec. 3. It shall be his duty to take full short-hand notes of the testimony and proceedings in which his services may be required, and such notes shall be deemed and held to be official, and the best authority in any matter in dispute, and a copy of same in long hand or in typewriting made as herein provided, shall be used by the parties to the cause in any further proceedings, wherein the use of the same may be required. It shall be the duty of said official reporter to furnish a copy written out in long hand or typewritten, of said notes of testimony and proceedings, upon the request of the judge, without extra charge in criminal cases, the copy to be filed in the clerk's office, and in case either party to the cause shall request or require a transcript or copy of said testimony and proceedings, said reporter shall furnish the same, and shall be paid therefor at the rate of ten cents for each one hundred words so transcribed.

Sec. 4. Such compensation and expenses in all criminal cases when collected shall be paid to the sheriff and by him accounted for and credited to the county treasury. The expense of reporting and transcribing any civil case shall be paid equally by the parties, plaintiff and defendant, to the cause, but the expenses so paid by the prevailing party shall be taxed as a part of the costs recovered.

Sec. 5. Said official reporter is hereby authorized to take affidavits, administer oaths, take acknowledgments of deeds and other writings, within the county embraced in the twenty-third judicial circuit, and to take and certify depositions in the same manner and with the same force and effect within said county, and shall be entitled to the same fees, as a notary public within the said county except when taking depositions to be used in any case or matter pending in said court, he shall be allowed compensation in full as herein provided in lieu of all other fees. All fees and compensations, (except for taking and certifying acknowledgments of deeds and other writings, taking affidavits and administering oaths, not to be used in any court proceedings in said court), when collected shall be accounted for and paid into the county treasury of said county.

Sec. 6. The judge of said court may appoint a page who shall attend and serve said court, to be paid not exceeding one dollar per day while so employed, out of the county treasury of the county in which said court is held, upon the certificate of the judge therefor.

Sec. 7. So far as any act or part of any act of the legislature of West Virginia is inconsistent with this act or any of its provisions, they shall not apply to the judge of the circuit court of the twenty-third judicial circuit, nor to said official reporter.

(House Bill No. 92.)

CHAPTER 49.

AN ACT to reform, alter and modify the county court of Tucker county, under the twenty-ninth section of the eighth article of the constitution of West Virginia.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

Sec.

1. County shall be laid off in seven districts; county court reformed; shall be composed of seven commissioners; how selected; justice of the peace not eligible; compensation.
2. When elected; term to begin.
3. Jurisdiction and powers of court; clerk of court; quorum.
4. First meeting of county court under this act.

Sec.

5. When the system provided for by this act shall be submitted to the voters of the county for approval; form of ticket.
6. How election shall be conducted and certified; court convene as board of canvassers.
7. If vote favorable to modification of court, then this act is in force and effect; if against modification of no force or effect.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The county of Tucker shall be laid off into seven districts as nearly equal as may be in territory and population. The present divisions of said county into districts, namely: Black Fork, Dry Fork, Fairfax, Davis, St. George, Licking and Clover, shall constitute such districts until changed by the county court, hereinafter mentioned, and according to law. The county court established in the said county by the eighth article of the constitution of this state, is hereby reformed, altered and modified, that is to say: The county court of the county of Tucker shall be composed of seven commissioners. The voters of each district shall elect one commissioner who shall be a resident of such district. Should any commissioner remove from the district of which he was a resident at the time of his election, his office shall thereby become vacant. The office of com-

missioner and of justice of the peace, shall be deemed incompatible. Each commissioner shall receive for his services two dollars (\$2.00) for each day he shall attend the court, to be paid out of the county treasury.

Sec. 2. At the general election in the year one thousand nine hundred and fourteen, and at each succeeding general election, there shall be elected by the voters of each of said districts one commissioner, whose term of office shall commence on the first day of January next after his election, and continue for two years. *Provided*, that the district in which the present member of the county court resides, who has an unexpired term of four years to serve from the first day of January, one thousand nine hundred and thirteen, and the said district in which the present member of the county court resides, who has an unexpired term for six years from the first day of January, one thousand nine hundred and thirteen, shall elect no such commissioner until the general election immediately preceding the first day of January, when the respective term of such commissioner shall expire. And the present member of the said county court shall be and remain the member of the court from the districts in which they respectively reside, for and during the period for which they were respectively elected.

Sec. 3. So far as they are not inconsistent herewith, all of the provisions of chapter thirty-nine of the code of West Virginia, "concerning county courts, and jurisdiction and powers," and all provisions of law respecting county courts generally, the commissioners composing such courts, and the clerks of such courts shall be applicable to the county court herein provided and to the commissioners composing the same; and the clerk of the county court of Tucker county, now in office, and his successors, shall be clerk of the county court herein provided. A majority of such commissioners shall be a quorum for the transaction of business.

Sec. 4. The first meeting of the county court, herein provided, shall be held on the first Monday of January, in the year one thousand nine hundred and fifteen, or as soon thereafter as a majority of them may assemble for the purpose, at which time and annually thereafter at their first meeting in each year, or as soon thereafter as practicable, they shall elect one of their number president of the court.

Sec. 5. At the general election in the year one thousand nine hundred and fourteen, the question of the adoption of the system pro-

vided for by this act, shall be submitted to the voters of the county of Tucker, voting at such election. Notice of such election shall be given by the publication of this act, in each weekly newspaper published in said county, once in each week for two successive weeks next preceding said election. The tickets for the vote on such question shall be furnished by the county court, and shall have printed thereon, "for modification of county court" and "against modification of county court," and the said ballots shall otherwise conform to the requirements of chapter three of the code of West Virginia respecting ballots to be voted at a general election, but the said ballots shall be separate from the ballots voted at such general election aforesaid.

Sec. 6. Such election, at each place of voting in said county, shall be superintended, conducted and returned by the same officers, at the same time, and in the same manner as the election of members of the legislature is superintended, conducted and returned, and the result at each place of voting shall be certified and returned to the county court now in existence in Tucker county. Said court shall convene in special session as a board of canvassers, and do and perform all acts and things respecting the said election required of them by the code of West Virginia with relation to elections by the people, so far as applicable thereto.

Sec. 7. If a majority of the votes cast upon the question be "for modification of county court," this act shall be and remain in full force and effect; but if a majority of such votes be "against modification of county court," this act shall be of no further force or effect.

(House Bill No. 134.)

CHAPTER 50.

AN ACT fixing the time for holding the circuit courts of the sixteenth judicial circuit of this state.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC. 17. Time for holding court in Grant		SEC. county, in Mineral county, and in Tucker county.
---	--	---

Be it enacted by the Legislature of West Virginia:

That section seventeen of chapter sixteen of the acts of the special session of the legislature of West Virginia, held in the year one

thousand nine hundred and eight, be amended and re-enacted so as to read as follows:

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 second Tuesday in March, the first Tuesday in June, the first Tuesday in September, and the first Tuesday in December.

(Substitute for Senate Bill No. 145.)

CHAPTER 51.

AN ACT amending and re-enacting section two of chapter nine of the acts of the regular session of one thousand nine hundred and eleven, fixing the number of terms and time for holding the circuit courts in each of the counties composing the twenty-first judicial circuit of the state.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.	2. Number of terms; time in Braxton		SEC.	county; time in Nicholas county; inconsistent acts repealed.
------	-------------------------------------	--	------	--

Be it enacted by the Legislature of West Virginia:

That section two of chapter nine of the acts of the regular session of one thousand nine hundred and eleven, be amended and re-enacted so as to read as follows:

Sec. 2. There shall be held in each year at least three terms of the circuit court in and for each of the counties in the said judicial circuit so hereby created, and the terms of the circuit court of the counties aforesaid shall commence and be held as follows:

For the county of Braxton on the third Monday in March, the second Monday in July and the third Monday in November.

For the county of Nicholas on the fourth Tuesday in January, the second Tuesday in June and the first Tuesday in October.

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

(House Bill No. 193.)

CHAPTER 52.

AN ACT to amend and re-enact section twenty of chapter one hundred and thirty-five of the code of West Virginia of one thousand nine hundred and six (serial number four thousand and fifty-seven), in reference to submission of causes to the supreme court.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.

20. Docket of causes; shall make and publish rules and regulations.

Be it enacted by the Legislature of West Virginia:

That section twenty of chapter one hundred and thirty-five of the code of West Virginia of one thousand nine hundred and six, (serial number four thousand and fifty-seven), be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 20. The supreme court of appeals shall have complete control of the time and manner of the hearing and submission to such court for decision of all causes pending therein, and shall make, enter of record and cause to be published reasonable rules and regulations in reference to the hearing and submission of all such causes.

(House Bill No. 196.)

CHAPTER 53.

AN ACT to reform, alter and modify the county court of Grant county under the twenty-ninth section of the eighth article of the constitution of West Virginia.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

SEC.

1. County shall be laid off in three districts; county court reformed; shall be composed of three commissioners; how selected; justice of the peace not eligible; compensation.
2. When elected; term to begin.
3. Jurisdiction and powers of court; clerk of the court; quorum.
4. First meeting of county court under this act.
5. When the system provided for by

SEC.

- this act shall be submitted to the voters of the county for approval; form of tickets.
6. How election shall be conducted and certified; court convene as board of canvassers.
7. If vote is favorable to modification of court, then this act is in force and effect; if against modification of no force or effect.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The county of Grant shall be laid off into three districts as nearly equal as may be in territory and population. The present divisions of said county into districts, namely: Milroy, Grant and Union, constitute such districts until changed by the county court, hereinafter mentioned, and according to law. The county court established in the said county by the eighth article of the constitution of this state, is hereby reformed, altered and modified, that is to say: The county court of the county of Grant shall be composed of three commissioners. The voters of each district shall elect one commissioner who shall be a resident of such a district. Should any commissioner remove from the district of which he was a resident at the time of his election, his office shall thereby become vacant. The office of commissioner and of justice of the peace, shall be deemed incompatible. Each commissioner shall receive for his services two dollars for each day he shall attend the court, to be paid out of the county treasury.

Sec. 2. At the general election in the year one thousand nine hundred and fourteen, and at each succeeding general election there shall be elected by the voters of each of said districts one commissioner, whose term of office shall commence on the first day of January next after his election, and continue for two years. *Provided*, that the district in which the present member of the county court resides, who has an unexpired term of four years to serve from the first day of January, one thousand nine hundred and thirteen, and the said district in which the present member of the county court resides, who has an unexpired term for six years from the first day of January, one thousand nine hundred and thirteen, shall elect no such commissioner until the general election immediately preceding the first day of January, when the respective term of such commissioner shall expire. And the present member of the said county court shall be and remain the member of the court from the districts in which they respectively reside, for and during the period for which they were respectively elected.

Sec. 3. So far as they are not inconsistent herewith, all of the provisions of chapter thirty-nine of the code of West Virginia, "concerning county courts and jurisdiction and powers," and all pro-

visions of law respecting county courts generally, the commissioners composing such courts, and the clerks of such courts shall be applicable to the county court herein provided and to the commissioners composing the same; and the clerk of the county court of Grant county, now in office, and his successors, shall be clerk of the county court herein provided. A majority of such commissioners shall be a quorum for the transaction of business.

Sec. 4. The first meeting of the county court herein provided, shall be held on the first Monday of January, in the year one thousand nine hundred and fifteen, or as soon thereafter as a majority of them may assemble for the purpose, at which time and annually thereafter at their first meeting in each year, or as soon thereafter as practicable, they shall elect one of their number president of the court.

Sec. 5. At the general election in the year one thousand nine hundred and fourteen, the question of the adoption of the system provided for by this act, shall be submitted to the voters of the county of Grant, voting at such election. Notice of such election shall be given by the publication of this act, in each weekly newspaper published in said county, once in each week for two successive weeks next preceding said election. The tickets for the vote on such question shall be furnished by the county court, and shall have printed thereon, "for modification of county court" and "against modification of county court," and the said ballots shall otherwise conform to the requirements of chapter three of the code of West Virginia respecting ballots to be voted at a general election, but the said ballots shall be separate from the ballots voted at such general election aforesaid.

Sec. 6. Such election, at each place of voting in said county, shall be superintended, conducted and returned by the same officers, at the same time, and in the same manner as the election of members of the legislature is superintended, conducted and returned, and the result at each place of voting shall be certified and returned to the county court now in existence in Grant county. Said court shall convene in special session as a board of canvassers, and do and per-

form all acts and things respecting the said election required of them by the code of West Virginia with relation to elections by the people, so far as applicable thereto.

Sec. 7. If a majority of the votes cast upon the question be "for modification of county court," this act shall be and remain in full force and effect; but if a majority of such votes be "against modification of county court," this act shall be of no further force or effect.

(House Bill No. 363.)

CHAPTER 54.

AN ACT to amend and re-enact section five of chapter sixteen of the acts of the legislature of West Virginia, passed March second, one thousand nine hundred and eight, entitled, "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 February 18, 1913. In effect ninety days from passage. Approved by the Governor February 19, 1913.)

<p>Sec. 5. Time for holding circuit court in</p>		<p>Sec. Wood county; time for holding circuit court in Wirt county.</p>
--	--	---

Be it enacted by the Legislature of West Virginia:

That section five of chapter sixteen of the acts of the legislature of the year one thousand nine hundred and eight, entitled "an act fixing the number of terms and time for holding the circuit courts in each county for the several judicial circuits of the state," be amended and re-enacted so as to read as follows:

Fourth Circuit.

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

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

(Senate Bill No. 35.)

CHAPTER 55.

AN ACT to authorize the county court of any county in which there was a criminal court prior to January first, one thousand nine hundred and thirteen, and which was abolished by the legislature of one thousand nine hundred and eleven, to pay the judge of the circuit court of said county, and resident therein, additional compensation.

(Passed February 10, 1913. In effect from passage. Approved by the Governor February 11, 1913.)

SEC.	1. County court authorized to pay judge of circuit court addition-		SEC.	al compensation; when to commence.
------	--	--	------	------------------------------------

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the county court of any county in which there was, prior to the first day of January, one thousand nine hundred and thirteen, a criminal court established under the provisions of the constitution of this state, and which criminal court was, by the legislature of one thousand nine hundred and eleven, abolished, is hereby authorized to pay to the judge of the circuit court of said county, in addition to the amount allowed to such judge out of the state treasury, such sum of money as the county court of said county shall deem just and proper, not to exceed the sum of twelve hundred dollars per annum; but such allowance shall not be increased or diminished during the term of office of the judge to whom it may be made, except that it may be made to the judge of the circuit court of said county now in office and the allowance herein authorized may commence as to the judge now in office from the first day of January, one thousand nine hundred and thirteen.

(Senate Bill No. 106.)

CHAPTER 56.

AN ACT to amend and re-enact section eight of chapter twenty-two of the acts of the legislature of West Virginia, passed February twenty-sixth, one thousand nine hundred and three, entitled "an act fixing the time for holding the circuit courts in each county of the several judicial circuits of the state," as amended and re-enacted by section eight, of chapter eighty-four of the

acts of the legislature of West Virginia, passed January thirtieth, one thousand nine hundred and five and also as amended and re-enacted by section eight of chapter thirty of the acts of the legislature of West Virginia, passed January twenty-first, one thousand nine hundred and seven.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

Sec.

8. Time for holding court in Boone, Logan and Wayne counties.

Be it enacted by the Legislature of West Virginia:

That section eight of chapter twenty-two of the acts of the legislature of one thousand nine hundred and three, entitled "an act fixing the time for holding circuit courts in each county of the several judicial circuits of the state," as amended and re-enacted by section eight of chapter eighty-four of the acts of the legislature of one thousand nine hundred and five, and also as amended and re-enacted by section eight of chapter thirty of the acts of the legislature of one thousand nine hundred and seven, be amended and re-enacted so as to read as follows:

Seventh Circuit.

Sec. 8. For the county of Boone on the second Monday in March, the second Monday in June, the second Monday in September and the second Monday in December.

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

(Senate Bill No. 156.)

CHAPTER 57.

AN ACT fixing the time for holding the terms of the circuit court in the counties of Taylor and Preston, for the fifteenth judicial circuit of this state.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

<p>SEC. 1. Time of terms of circuit court in Taylor and Preston counties.</p>	<p>SEC. 2. Acts inconsistent repealed.</p>
---	--

Be it enacted by the Legislature of West Virginia:

Sec. 1. That section sixteen of chapter sixteen, acts of the legislature of one thousand nine hundred and eight, be amended and re-enacted so as to read as follows:

The regular terms of the circuit court for the county of Taylor shall commence and be held on the second Tuesday in January, the fourth Tuesday in April and the second Tuesday in September.

The regular terms of the circuit court for the county of Preston shall commence and be held on the second Tuesday in March, the second Tuesday in June and the third Tuesday in November.

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

(Senate Bill No. 164.)

CHAPTER 58.

AN ACT fixing the number of terms of and the time for holding the circuit courts in each of the counties of the twentieth judicial circuit of West Virginia.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

<p>SEC. 1. Number of terms to be held. 2. Time for holding circuit court in</p>	<p>SEC. Greenbrier and Pocahontas counties. 3. Inconsistent acts repealed.</p>
---	--

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 court of the two counties of the twentieth judicial circuit, and the terms of each of the said counties shall commence and be held as provided in section two of this act.

Sec. 2. For the county of Greenbrier on the third Tuesday in April, the fourth Tuesday in June and the third Tuesday in November of each year.

For the county of Pocahontas on the first Tuesday in April, the

fourth Tuesday in July and the first Tuesday in December of each year.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 328.)

CHAPTER 59.

AN ACT relating to a special levy for the fiscal year of one thousand nine hundred and thirteen, in the county of Wayne, to enable said county to build a county building at the county infirmary in said county.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

Sec.

1. County court may lay special levy.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That for the purpose of building and completing said house for the care and maintenance of the paupers of Wayne county, the county court of said county may lay a special county levy of ten cents on the one hundred dollars valuation on taxable property in said county for the fiscal year of one thousand nine hundred and thirteen.

(House Bill No. 59.)

CHAPTER 60.

AN ACT providing for the establishment and maintenance of joint district high schools, by two or more contiguous districts, the same to be section thirty and one-half of chapter forty-five of the code of West Virginia.

(Passed February 15, 1913. In effect from passage. Approved by the Governor February 17, 1913.)

Sec.

30 ½. Board of education of two or more contiguous districts may submit question of a joint high school to the voters in

Sec.

the territory; how to determine location; control and management; authority conferred on board of education.

Be it enacted by the Legislature of West Virginia:

Sec. 30½. If the boards of education of two or more contiguous districts whether in the same or another county, believe it expedient and wise to establish and maintain jointly a high school in any one of said districts, the building, if one is to be erected, and the site therefor, to be owned jointly in proportion to the amounts contributed by the districts so uniting, the respective boards shall submit the question to the voters of the respective districts, at a general or special election, in the way and manner and after the notice required by section thirty of said chapter.

The boards of education proposing to unite shall meet and determine the location of the proposed school, the estimated amount to be contributed toward the establishment and yearly maintenance of said school by each district, the total cost thereof to be apportioned among the districts uniting on the basis of their respective valuations of taxable property, which agreement shall be reduced to writing and entered of record in the minute book of the respective boards, the substance of which shall be made a part of the statement to the voters hereinbefore provided for.

The control and management of said joint high school, after the same is established; is hereby vested in the boards of education of the several districts so uniting to be exercised in joint session. the county superintendent of schools to be *ex officio* a member and chairman of said joint session, and as such entitled to vote and participate in the control and management of said high school, and there is hereby conferred upon each board of education all of the authority for the establishment and maintenance of said joint high school by contract, levy, issue of bonds, or otherwise, that is conferred upon a board of education for the establishment and maintenance of a high school within its district; the election to be held and the result ascertained as provided in said section thirty of chapter forty-five of the code; and all of the provisions of said section, so far as the same are applicable, are made applicable to the establishment and maintenance of such joint high school, except that a majority of the voters of each district shall be sufficient to authorize the establishment of such high school. In the event that one or more of the districts uniting to establish such high school shall be in different counties, the county superintendent of each county shall be *ex officio* a member of such joint session, the chairman to be selected by such joint session, and in the event of a

tie vote on any question, the state superintendent of schools shall have the deciding vote.

Said boards of education, in joint session as herein provided, may provide for the teaching of elementary pupils in such high school building, if the same have sufficient capacity, upon such terms for the use of the building as they may agree upon.

(House Bill No. 334.)

CHAPTER 61.

AN ACT to amend and re-enact chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven, of the legislature of West Virginia, creating the "independent school district of Point Pleasant" and to change and enlarge the boundaries and limits of said independent school district so as to include additional territory.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 25, 1913.)

SEC.

1. If voters favor, additional territory will be added to independent school district of Point Pleasant; the boundaries; Lewis magisterial district to vote on question.
2. The tickets to be used; the result of election to be ascertained.
3. There shall be a board of education; powers, etc.; additional members to be elected; who shall vote; term of office; how election officers shall be selected.
4. The district and the board of education to be governed by general law.

SEC.

5. What disposition shall be made of moneys unexpended when new district is formed.
6. At first meeting after election the board shall appoint a secretary; his duties.
7. Board to ascertain what amount of money necessary; keep school in operation six months; levy a tax, which shall be collected by sheriff and accounted for; his commission.
8. Board to appoint teachers; when may remove teachers for.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven, of the legislature of West Virginia, creating the independent school district of Point Pleasant be amended and re-enacted so as to change and enlarge the boundary limits of said independent school district of Point Pleasant, created by chapter thirty-nine of the acts of one thousand eight hundred and eighty-seven, to read as follows:

Sec. 1. That in case a majority of the voters voting on the question at the election herein provided for, be in favor thereof, the fol-

lowing described territory in the county of Mason shall, after the result of such election is ascertained and declared, be added to and become a part of the independent school district of Point Pleasant, to-wit:

All that territory bounded and described as follows: Beginning at a black oak on the E. B. Jones land, being the northeast corner of the corporation of Point Pleasant and northeast corner also of the independent school district of Point Pleasant; thence through and over the lands of E. B. Jones north 42° east 40 poles to a stake two poles from a walnut tree, bearing on walnut south 71.5° west; thence north 6° east 27.5 poles to a large elm tree in easterly edge of a drain; thence north 45° west 15 poles to a stake, corner of the Capehart land; thence with line of same north 31° east 25 poles to a stake; thence north 37.5° east 79 poles to a stake; thence north 48.5° east 20.5 poles to a stake; thence north 37.5° east 23 poles 10 links to a stake in the Jericho public road; thence out the road south 74° east 48 poles 10 links to a sharp bend in the road; thence south 22° east 47.5 poles; thence south 40° east 14 poles to a stake on the south side of road, corner of lot of James Gardner; thence with his line south $2\frac{1}{4}^{\circ}$ west 22 poles to a stake, corner in the Capehart line; thence with the Capehart and Gardner line north 65.5° east 9 poles 20 links to a stake in the eastern edge of the public road on west bank of creek; thence out the road along the easterly side south $93\frac{3}{4}^{\circ}$ east 28 poles to a stake in the easterly edge of road just above the house of Morgan McDaniel, about 16 feet from a large beech standing on the bank; thence through and over the lands of Morgan McDaniel on southerly side of house, north 75.5° east 31 poles 5 links to a fence post on top of the ridge on lands of said McDaniel; thence in a northern direction to corner of lands of P. J. Hale; thence with dividing line of P. J. Hale and R. P. Litter to a point on Crooked creek in line of Harvey Mourning; thence through and over the lands of Mourning, Gabbert and English, north 1° east 84.5 poles to the line of the Gabbert tract, 127 poles to the northerly side of the Sandhill public road, passing a large black oak on the northerly side of the road on the English lands, continuing same, bearing in all 161 poles to a stake in the Robinson and Lewis district line on a knoll southeast of George Burdett's house; thence with the Lewis and Robinson district line to the Ohio and West Virginia state line; thence with said state line by meanderings of Ohio river to the northwest corner of the present independent school district of Point

Pleasant; thence with line of said independent school district south 73.5° east 240 poles to the place of beginning.

Provided, however, that before this act shall take effect the question of enlarging the said independent school district as aforesaid shall be submitted to the voters of the magisterial district of Lewis at a special election to be held in said district under the general laws so far as applicable and the supervision of the county court of Mason county, on the twelfth day of April, one thousand nine hundred and thirteen.

Sec. 2. The tickets for said election shall have written or printed thereon "for enlarging independent school district" and "against enlarging independent school district." The result of said election shall be ascertained and declared by the said county court and the result thereof certified to the boards of education of Lewis district and the independent school district of Point Pleasant; and if a majority of the votes cast upon said question in said magisterial district shall be in favor of the enlargement of said independent school district of Point Pleasant, then the territory described in section one of this act shall thereafter be included within and be a part of the independent school district of Point Pleasant; but, if a majority of the said votes shall be against such enlargement, or the vote on the question be even, then said district shall remain as it is.

Sec. 3. In the independent school district of Point Pleasant as so enlarged, there shall be a board of education consisting of a president and four school commissioners, who shall be a corporation by the name of "the board of education of the independent school district of Point Pleasant," and as such shall possess all the powers and be subject to all the liabilities of such corporations, and in addition thereto shall likewise perform all the duties and be subject to all the liabilities of both boards of education and trustees. The president and members of the present board of education of the independent school district of Point Pleasant, after the first day of July, one thousand nine hundred and thirteen, shall continue in office until the expirations of their respective terms of office, and two additional school commissioners to be members of said board of education, and have equal rights, powers and privileges with the other members, shall be elected, at a special election to be held for the purpose on the thirty-first day of May, one thousand nine hundred and thirteen, in the territory added to the said independent school district by this act, with the assent of the voters of the magisterial district of Lewis, as herein provided, at which only qualified voters residing in said

territory so added shall be permitted to vote. Only actual residents of such added territory shall be eligible to the two additional memberships in said board hereby created, and their terms of office shall expire with the termination of those of the president and the other members thereof. At the general election to be held in the said county of Mason in the year one thousand nine hundred and fourteen, a president and four commissioners of said board of education shall be elected, the president for a term of four years, two commissioners for terms of two years and two for terms of four years each, the years of such terms to be the same as those of the terms of members of boards of education under the general law. And thereafter their successors shall be elected at the biennial general elections for terms of four years and hold their offices for such terms and until their successors are elected and qualified.

The special election to be held in said added territory on the thirty-first day of May, one thousand nine hundred and thirteen, shall be held and conducted at the school house therein, and under the supervision of the board of education of the independent school district of Point Pleasant as now constituted, but each of the two leading organizations of voters, having or supporting candidates for election therein, shall be permitted by said board of education to designate by the chairman of its committee or its candidates, by a writing to be filed with the secretary or any member thereof, one commissioner, one clerk and one challenger, all of whom, as well as the third commissioner, shall be legal voters of said added territory. Said election officers shall be appointed on the third day of May, one thousand nine hundred and thirteen, and immediately notified of their appointments. Nominations of candidates may be made by conventions under any party or organization name the voters holding them may adopt. Except as herein otherwise provided, said board of education shall perform the duties in relation to said election required by the general laws of county courts and officers in force on the first day of March, one thousand eight hundred and ninety-one, concerning elections by the people, and such laws shall govern such election and be applicable thereto.

Nothing herein contained shall be construed to prohibit the reelection and eligibility of any member of such board for two or more terms. Nor shall anything in this act be construed to extend the term of the president or any member of the board of education of said independent district, as said district now is, to come into

office on the first day of July, one thousand nine hundred and thirteen, or in any manner enlarge or diminish the rights or powers of any of them, in case said independent district is not enlarged as aforesaid. Vacancies in said board, occurring after this act takes effect, shall be filled for the unexpired term by appointment by said board within two weeks after such vacancy shall have occurred. If the board shall fail or refuse to fill it within such time, the county superintendent of schools shall fill such vacancy.

Sec. 4. The independent school district of Point Pleasant herein authorized, and the board of education herein authorized to be elected, shall conform to, and be governed by, the general school law in this state, except where it is otherwise provided by this act.

Sec. 5. All school moneys, whether belonging to the teachers' or building fund of Lewis district, which may be unexpended when the provisions of this act take effect, shall be divided between the said Lewis district and the independent school district of Point Pleasant, in proportion to the amount of taxable property remaining in the said district of Lewis and the amount of taxable property added to the independent school district of Point Pleasant. The latest assessment for state and county purposes shall be taken as the basis of such settlement and division. It shall be the duty of the boards of education of each of said districts, on or before the first day of July after the provisions of this act take effect, to make the financial settlement provided for in this section.

Sec. 6. The said board of education, at their first meeting after their election, shall appoint a secretary, who shall not be a member of the board, and who shall perform all the duties of a secretary of a board of education prescribed in the general school law, and in addition thereto, shall make an enumeration of the youths of the said independent district, between the ages of six and twenty-one years of age, at the time required by the general school law, and according to the provisions herein contained in relation to making enumeration of youths. The salary of said secretary shall not exceed one hundred and twenty-five dollars per year.

Sec. 7. It shall be the duty of the board of education of said independent school district, at their annual meeting, to be held at the time required by the general school law, to ascertain, as near as can be, the amount of money necessary, in addition to other funds properly belonging to said independent district available for that year, to keep the schools of said district in operation not less than six months in the year, for which amount said board shall levy a

tax upon the taxable property included in said district, which tax shall be collected in the same manner as other school taxes are collected under the provisions of the general school law of this state; and for collecting the same the sheriff shall be allowed the same commission as he is allowed by law for collecting the school money for the districts.

Sec. 8. The board of education of said independent school district shall, at a meeting held not later than the first day of September in each year, appoint as many teachers as they shall deem necessary to give proper instruction to the pupils of school age within said district, and at the same meeting they shall fix the salary which each of said teachers may receive. Such appointment shall be recorded by the secretary of said board; and any teacher appointed by said board may, by them, be removed for incompetency, neglect of duty, intemperance, profanity, cruelty or immorality.

(House Bill No. 335.)

CHAPTER 62.

AN ACT to amend and re-enact sections forty-five, ninety-nine, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-six, one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine of chapter twenty-seven, acts of one thousand nine hundred and eight, and to add thereto sections one hundred and forty-nine-a, one hundred and forty-nine-b, one hundred and forty-nine-c, and one hundred and forty-nine-d, relating to issuing and paying school orders and to the manner of keeping the financial accounts and making settlements for school funds, and repealing all sections inconsistent herewith.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.	SEC.
45. First meeting; appoint secretary; oath; duty; deliver records, etc. to successor in office.	146. Penalty for failure to settle.
99. Teachers paid by orders drawn on school treasurer.	147. If sheriff fails when suit shall be brought.
138. Accounts to be kept; pay out no money except on orders.	148. Penalty for failure on part of financial secretary.
139. Annual settlement with financial secretary; what shall be charged and credited.	149. Turn over to successor.
140. Orders found to be correct, shall be a credit; commission.	149a. Ex officio county financial secretary.
141. Shall make lists of credits; method of settlement.	149b. Duties of financial secretary.
142. Annual settlements with by districts with county court.	149c. County court to provide suitable office in the court house for financial secretary.
143. When treated as settlement; how corrections may be made.	149d. No order shall be paid until countersigned by financial secretary after July 1, 1913; acts inconsistent with this repealed.

Be it enacted by the Legislature of West Virginia:

That sections forty-five, ninety-nine, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-six, one hundred and forty-seven, one hundred and forty-eight, one hundred and forty-nine of chapter twenty-seven, acts of one thousand nine hundred and eight, be amended and re-enacted so as to read as follows, and that sections one hundred and forty-nine-a, one hundred and forty-nine-b, one hundred and forty-nine-c, and one hundred and forty-nine-d be added thereto.

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, showing the number of each order issued, the name of the payee, the purpose for which issued, and the amount thereof, 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. Whenever any orders are drawn on the sheriff or school treasurer the secretary shall immediately make up a list of said orders, showing the number of the order, name of payee and amount, which list together with said orders shall be delivered to the county financial secretary for his signature and proper record. Said orders shall then be delivered by the county financial secretary to the persons entitled to the same.

Sec. 99. All teachers shall be paid monthly by orders drawn on the school treasurer, duly signed by the president and secretary and countersigned by the county financial 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.

Sec. 138. He shall keep accounts with the boards of education of the various districts and independent districts of the money belonging 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 of the respective boards specifying the amount to be paid, the purpose for which paid and the fund to which it is to be charged, signed by the president and secretary and countersigned by the county financial secretary; or by the president and one other member, as prescribed in section ninety-nine, and countersigned by the county financial secretary.

Sec. 139. He shall on or immediately before the first day of July in each year, settle with the county financial secretary. 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, for the building fund and all other school funds, 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.

Sec. 140. He shall be credited in such settlements with all orders paid and produced by him, if found to be correct by the county financial secretary, 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, the building fund, or any other school 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.

Sec. 141. In making said settlement it shall be the duty of the sheriff to prepare and present to the county financial secretary, 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 with which he is chargeable; which lists and state-

ments together with the vouchers claimed as credits by the sheriff shall be examined by the county financial secretary and if found correct the said vouchers or orders, bonds and interest coupons credited to said sheriff shall be indorsed by the county financial secretary on the back of each with the words, "settled by county financial secretary, _____, _____, 19—," and shall be cancelled with a perforation; and said statements and lists as corrected shall be signed by said sheriff and by the county financial secretary, in duplicate, one copy to be retained by the county financial secretary and the other, together with the vouchers, or orders, and cancelled bonds and interest coupons shall be turned over to the sheriff who shall thereupon 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.

Sec. 142. The sheriff shall also make annual settlements by districts with the county court of his county not later than the tenth day of July in each year, showing an itemized statement of all money received or disbursed for the preceding year on account of all school 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; and the clerk shall file a copy of the settlement, as approved, with the secretary or other person keeping the financial accounts of each board of education.

Sec. 143. But the settlements made by the sheriff with the county financial secretary, 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 county financial secretary, and make such corrections as may be proper, and when corrected said settlements shall be recorded; and said settlements and vouchers turned over to the clerk of said court shall be filed by said clerk by districts.

Sec. 146. If any sheriff fails to make the settlement required by section one hundred and forty-two at the time required, without reasonable cause therefor, he shall 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.

Sec. 147. If the sheriff fails 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 and penalty imposed upon him by sections one hundred and forty-two and one hundred and forty-six.

Sec. 148. If any county financial secretary fails 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, he shall be guilty of a misdemeanor and upon conviction thereof be fined twenty dollars, the proceeds of which fine shall be placed to the credit of the building fund of the district.

Sec. 149. The retiring sheriff shall immediately after he shall have made his final settlement in the manner herein provided, pay and turn over to his successor in office such balance as may be shown to be due from him by said settlement.

Sec. 149-a. The county superintendent of free schools in each county shall be *ex officio* county financial secretary, and as such officer he shall have the power and authority and perform the duties herein set forth.

Sec. 149-b. The county financial secretary shall keep the financial records for all the schools within his county, said records to be kept in the form prescribed by the chief inspector under chapter thirty-three, acts of one thousand nine hundred and eight. He shall countersign all legal orders issued by the several boards of education within his county before said orders are payable by the sheriff or school treasurer, and shall make annual settlements with the sheriff or school treasurer for the several school funds, as provided by law; he shall at the end of each month deliver to each board of education a summarized statement showing the financial condition of their several school funds, said statement to be in the form prescribed by the chief inspector under chapter thirty-three, acts of one thousand nine hundred and eight.

Sec. 149-c. The county court of every county shall provide at the county seat a suitable office, to be located in the courthouse if there be sufficient room, for the county financial secretary, and shall keep

the same supplied with the necessary furniture, fuel, light, record books, stationery, postage and such other things as shall be necessary. The county financial secretary shall receive for his services required by this act an annual compensation of seventy-five dollars, except that in counties having more than one hundred teachers employed for at least six months during the year, the annual compensation shall be at the rate of seventy-five cents for each teacher so employed, said compensation to be based on the number of teachers employed during the preceding year, and to be paid quarterly on orders issued by the county court drawn on the general county fund.

Sec. 149-d. After July first, one thousand nine hundred and thirteen, no sheriff or school treasurer shall pay any order which was drawn on a school fund prior to July first, one thousand nine hundred and thirteen, until after said order has been countersigned by the county financial secretary. At the end of each month the sheriff or school treasurer shall make a report to the county financial secretary showing the date, number and amount of each school bond and interest coupon paid during the month.

This act shall be in effect on and after July first, one thousand nine hundred and thirteen.

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

(House Bill No. 355.)

CHAPTER 63.

AN ACT to amend and re-enact section one of chapter twenty of the acts of one thousand eight hundred and ninety-three, entitled, "an act to establish the independent school district of Belington in Barker and Valley districts in Barbour county."

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

SEC.

1. Boundaries of independent school district of Belington, set out.

Be it enacted by the Legislature of West Virginia:

That section one of chapter twenty of the acts of one thousand eight hundred and ninety-three, be amended and re-enacted so as to read as follows:

Sec. 1. The boundaries of the independent school district of Bel-

ington shall include all the territory covered by the corporate limits of the city of Belington, which corporate limits are bounded and described as follows, to wit:

Beginning at a red oak on the west bank of the Tygart's valley river, a corner to the lands of Joseph Teter's heirs and Valley Coal and Coke company, and running south $25^{\circ} 30'$ east 57.75 perches to a stake on the Buckhannon road, corner to the Valley Coal and Coke company; thence with the said road south $35^{\circ} 30'$ west 51.15 perches to a white oak; thence south 66° west 21 perches to a stake; thence south 56° west 28.25 perches to three chestnuts, corner to Laura Hathaway and the Tygart's Valley Mineral and Oil company; thence south $45^{\circ} 30'$ east 18 perches with said line; thence south $56^{\circ} 30'$ east 4.50 perches with said line; thence north $44^{\circ} 30'$ east 9.25 poles with said line; thence south 37° east 25.25 perches with said line; thence south $37^{\circ} 45'$ east 25.50 perches with said line; thence south $30^{\circ} 45'$ east 12 perches with said line to a white oak; thence south 5° east 10.50 perches with said line to a beech; thence south $14^{\circ} 30'$ west 25.75 perches with said line to a sassafras; thence south 40° west 7.50 perches with said line to a stake with locust pointers, corner to heirs of Jesse Teter; thence with their line south $82^{\circ} 15'$ east 10 perches to a beech and birch, corner to Charles Keiser; thence with his lines south 7° west 48 perches to a white oak stump on the bank of Big Run, corner to the heirs of Jesse Teter and said Keiser; thence with their line south $76^{\circ} 15'$ east 150 perches to a stone on the east side of the county road, corner to the heirs of Jesse Teter; thence with their line south 23° west 58 perches to a stone in the river opposite the old Rosenherger mill site, corner to the heirs of Jesse Teter and H. A. Monahan; thence up the Valley river with its meanderings at the water's edge, south $52^{\circ} 31'$ west 29.60 perches; thence south $10^{\circ} 15'$ west 23.20 perches; thence south $5^{\circ} 30'$ east 26.76 perches; thence south 32° east 36.60 perches; thence south $47^{\circ} 30'$ east 13.80 perches; thence south 81° east 21.81 perches; thence north 80° east 28.32 perches passing the south end of the Roaring creek and Belington railroad bridge; thence south $80^{\circ} 30'$ east 9.32 perches; thence south $33^{\circ} 30'$ east 9.68 perches; thence crossing the said river, north $87^{\circ} 15'$ east 13 perches to a stake at the culvert on the east side of the said river on the West Virginia Central and Pittsburg railway; thence south $49^{\circ} 15'$ east 38.74 perches to a stake in Hillyard's field near a line of the Belington industrial company; thence south $88^{\circ} 30'$ east 47.88 perches to a stake; thence south $89^{\circ} 40'$ east 24.24 perches to a stake;

thence north $79^{\circ} 30'$ east 110 perches to a stake at the old road, corner to Luther and John Hillyard on the old road crossing the mountain; thence with said road north $18^{\circ} 45'$ west 28.18 perches to a stake in the road; thence north 22° west 39.81 perches to a stake, corner to J. G. Stalnaker and W. S. Phares' place; thence with the said Stalnaker and Phares' line, north $55^{\circ} 30'$ east 71 perches to a stake at the Fairmont and Beverly pike, corner to the said Phares and Stalnaker and W. S. Shurtleff; thence with said pike north $17^{\circ} 30'$ west 75 perches; thence north 3° east 33 perches; thence north $25^{\circ} 30'$ west 28 perches; thence north $44^{\circ} 30'$ west 17 perches; thence north $25^{\circ} 30'$ west 20 perches to corner of J. W. Ward and J. W. Shurtleff; thence leaving the pike and running with said Ward's line, north $14^{\circ} 30'$ east 39.14 perches to a stake, corner to Shurtleff and Ward; thence with said Shurtleff's line north 72° east 39 perches to a locust, corner to Shurtleff; thence north 42° east 97 perches to a stake, corner to Shurtleff and T. T. Elliott; thence south 10° west 6 perches to a stone, corner of Shurtleff and T. T. Elliott; north 52° east 67 perches to a white oak, corner to Serpell and Elliott; thence $43^{\circ} 30'$ west 18.80 perches to a gum, corner of Dunham and Elliott; thence with Dunham and Elliott's line north $56^{\circ} 30'$ west 120 perches to a white oak, corner to Dunham; thence north 66° west 14.28 perches to a stake; thence north 6° east 5 perches to a stake at the Morgantown pike; thence north 47° west 71.45 perches to two black walnuts in Martha Davis' field; thence north 63° west 99.60 perches to a chestnut in J. W. Thornhill's field; thence south 83° west 84.36 perches to a walnut in J. W. Thornhill's field; thence south 11° west 24.24 perches to a stake at the Fairmont pike; thence north $80^{\circ} 30'$ west 30 perches to a large sugar on the south side of the pike; thence south $85^{\circ} 30'$ west 52.12 perches to a stake in Rohrbough's field; thence south 77° west 128.84 perches to a large sugar on the south side of the Baltimore and Ohio railroad; thence south 72° west 30 perches, crossing the Tygart's Valley river to the beginning, containing one thousand three hundred acres.

All acts or parts of acts inconsistent herewith are hereby repealed.

(House Bill No. 392.)

CHAPTER 64.

AN ACT to create the independent school district of Church, in the county of Wetzel.

(Passed February 17, 1913. In effect from passage. Approved by the Governor February 20, 1913.)

- Sec.**
1. What shall be Church independent school district.
 2. Board of education; who are eligible.
 3. How members of board are selected; term of service; how vacancies are filled.
 4. Board shall elect president; his term; entitled to one vote.
 5. Secretary; how selected; duties and compensation.
 6. Compensation of commissioner.
 7. President or secretary *pro tempore*.
 8. Board may hold regular meetings; special meetings may be called; how; quorum.
 9. Board a body corporate.
 10. Enumeration of youth to be taken annually; when.
 11. Board to provide houses, furniture, etc., and keep in repair; supply fuel, levy tax. how, for what purposes; deposit in bank special levy.
 12. Levy a tax to support school teachers' fund; may extend school term.
 13. Upon failure of board to lay levy, the circuit court shall compel.
 14. Assessment levied, collected and accounted for.
 15. Property exempt from taxation; how title is vested.
 16. Board may make rules, etc.
 17. Board has power to furnish books, fix salaries, etc.

- SEC.**
18. Who entitled to admission to schools.
 19. Sub-districts.
 20. Board to elect superintendent, fix his salary; his duty; how vacancy may be filled.
 21. Board may appoint assistant superintendent.
 22. Duty of superintendent; board may refuse to appoint; recommendations.
 23. Officers shall not receive gift for, etc.; penalty.
 24. Superintendent may issue certificates; state superintendent may revoke.
 25. How certificates may be granted.
 26. Teachers may be required to pass on additional subjects.
 27. Duty of superintendent as to schools.
 28. Teachers subject to.
 29. Teachers, how appointed.
 30. Board may establish high schools.
 31. Board may abolish sub-district and make other provisions.
 32. May hold institute in district.
 33. Penalty for defacing property.
 34. Board prescribe circumstances under which school house may be used.
 35. Medical inspection.
 36. Inconsistent laws void.
 37. When this act shall become effective; an election provided for.

Be it enacted by the Legislature of West Virginia:

Sec. 1. The magisterial district of Church, in the county of Wetzel, as now bounded and designated in the records of the clerk of the county court of said county, shall be, and is hereby created an independent school district, to be known as the "Church independent school district."

Sec. 2. There shall be a board of education for said district to consist of five commissioners, who shall be residents and freeholders thereof, at least one of whom shall reside outside of the corporate limits of the town of Hundred. The president and commissioners now in office shall serve to the end of the term to which they have respectively been elected or appointed.

Sec. 3. On or before the first day of May, one thousand nine hundred and thirteen, there shall be appointed by the county superintendent of free schools, of the said Wetzel county, two school commissioners, one of whom shall reside outside the corporate limits of the town of Hundred, and who shall hold office until the first day of July, one thousand nine hundred and fifteen.

At the general election held in the year one thousand nine hundred and fourteen, there shall be elected two commissioners who shall

succeed the two commissioners whose appointment is provided for in this section and whose term of office shall begin on the first day of July, one thousand nine hundred and fifteen, and continue four years. There shall also be elected at the same time two commissioners whose term of office shall begin on the first day of July, one thousand nine hundred and fifteen, and continue for six years.

At the general election held in the year one thousand nine hundred and sixteen, there shall be elected one commissioner whose term of office shall begin on the first day of July, one thousand nine hundred and seventeen, and continue for six years.

All vacancies in the said board shall be filled by a majority vote of the remaining members of said board, but no person shall be elected except upon the nomination of the superintendent of schools of the district, or if no district superintendent, upon the nomination of the county superintendent. The commissioner or commissioners so appointed to fill such vacancy shall serve until the next general election, or until their successors are elected and qualified.

Sec. 4. At a regular meeting of the board of education, to be held on the first Monday in July, one thousand nine hundred and thirteen, and each year thereafter, one of the commissioners shall be elected as president of the board; *provided*, he shall receive a majority vote of all the commissioners and shall continue to serve as such for the period of one year. He shall be allowed one vote on all questions.

Sec. 5. At the first regular meeting of the board of education on the first Monday of July of each year, a secretary shall be elected, who shall not be a member of the board, and who shall perform such duties as are prescribed by the general school law, and such other duties as may be prescribed by the board, and shall receive for his services such compensation as shall be fixed by the board.

Sec. 6. Each commissioner shall receive for his services such compensation as is allowed members of boards of education under the general school law.

Sec. 7. In the absence of the president or secretary, a president or secretary *pro tempore* shall be elected.

Sec. 8. In addition to the regular meeting prescribed by the general school law, the board of education may hold regular meetings at such times and places within the district as it may appoint.

Special meetings may be called by the president, or at the written request of two commissioners, by the secretary; but no business shall be done at such special meetings except such as is embraced in the call.

Notice of such special meetings shall be served personally on each commissioner, or mailed to him at least two days prior to the meeting; but the presence of any commissioner at such special meeting shall be sufficient evidence that he has been properly notified.

Not fewer than three members shall be required to constitute a quorum, but a smaller number may adjourn from day to day.

Sec. 9. The board of education of Church district shall be a body corporate in law by the name of "board of education of the independent school district of Church in the county of Wetzel," and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and have a common seal, may purchase, hold, sell and convey real or personal property for the purpose of education within the district, may receive any gift, grant, donations or devise for the benefit of education, may employ attorneys, become parties to suits and contracts, and do and perform any and all other corporate acts, necessary to the advancement of free school education in the said district.

It shall succeed and be substituted to all the rights of the former board of education of the district of Church in the county of Wetzel, and may prosecute and maintain any and all suits and proceedings now pending, or which may have been brought and prosecuted, in the name of the former board of education for the recovery of any money or property or damage to any property due to or vested in said board of education, and shall be liable in its corporate capacity for all claims legally existing against such board of education.

The title to all real estate and personal property now vested in the board of education of Church district in the county of Wetzel shall be, and is hereby vested in the board of education of the independent district, and all contracts of the former board now in force shall be, and are legally binding on the new board and on all other parties to said contracts.

Sec. 10. Annually, not later than the first day of April, the board of education shall cause to be taken the enumeration of all school youth of the district as provided for by the general school law, and to this end they may employ competent persons and fix their compensation, or require the teachers to take said enumeration in the manner and form provided for in the general school law.

Sec. 11. It shall be the duty of the board of education to provide by purchase, condemnation, leasing, building, or otherwise, school houses and grounds, furniture, fixtures and appendages, and to keep

the same in good order and repair, and to supply fuel and all other things necessary for the comfort and convenience of the teachers and pupils of the district; to pay the principal and interest on loans made pursuant to this act and all other necessary expenses incurred in the district not chargeable to the teachers' fund.

For the purposes mentioned in this section, the board of education annually in the manner and form and at the time provided by chapter nine of the acts of the legislature of West Virginia, extra session, one thousand nine hundred and eight, shall levy a tax on the taxable property of said district, not to exceed in any one year the rate specified in said act, on every one hundred dollars valuation thereof, according to the latest assessment for state and county taxation; *provided*, that any amendment or amendments or other change in said act made at the present or any future session of the legislature shall apply equally to the Church independent school district as elsewhere in the state. The proceeds of the taxes so levied, of school houses and sites sold, of all donations, devises and bequests applicable to any of the purposes mentioned in this section, and of any means that may be made for this purpose, shall constitute a fund to be known as the "building fund," to be used for the purposes named in this act. *Provided*, that a levy not to exceed ten cents on the one hundred dollars valuation of taxable property as aforesaid, may be laid in addition to the foregoing, for four successive years, for the purpose of constructing and equipping a high school building or buildings in said district. The proceeds of such levy shall be known as "the special high school building fund" and shall not be used for any other purpose than the erection of a new high school building or buildings, or a building or buildings to be used for high school with some rooms thereof used for the common schools and providing the same with necessary furniture and apparatus; *provided, further*, that no such levy in addition to that provided for in said chapter nine of the acts of the legislature of West Virginia, extra session, one thousand nine hundred and eight, shall be made after the end of the school year beginning July first, one thousand nine hundred and sixteen, and ending June thirteenth, one thousand nine hundred and seventeen.

The amount of said special levy so collected in any one year by the said board of education, to be deposited by it in some bank or banks of deposit and discount, at the rate of interest paid by such bank or banks at the time the deposit is made, and to remain deposited therein at interest until used by said board of education for the

erection and equipping of such high school buildings, which shall not exceed the term of four years from the first day of July, one thousand nine hundred and thirteen.

Sec. 12. In addition to the levy provided for the building fund, the board of education, annually, in the manner and form and at the time provided by chapter nine in the acts of the legislature of West Virginia, extra session, one thousand nine hundred and eight, shall levy for the support of the schools of the district such tax on taxable property of the district as will, with the money received from the state for the support of free schools, be sufficient to keep said schools in operation not fewer than six months in the year; *provided*, that said tax shall not, in any one year, exceed the rate of thirty-five cents on every hundred dollars valuation, according to the last assessment made for state and county purposes.

The proceeds of this levy, together with the money received from the state aforesaid, shall constitute a fund to be known as the "teachers' fund," and no part thereof shall be used for any purpose other than the payment of teachers' salaries, the salaries of the district superintendent and his assistants and office force, salaries of medical inspectors and supervisors of special lines.

Provided, further, that the board of education may extend the school term in any sub-district to as many months as they desire, according to the needs of that sub-district, so long as the levy for the teachers' fund is not increased beyond the limit imposed by this section.

Sec. 13. Upon failure of the board of education to lay the levies required by this act, the circuit court, upon the application of any taxpayer of the district, shall compel it to do so.

Sec. 14. The assessment made under this act shall be levied, collected and accounted for in the manner and form provided in the general school law.

Sec. 15. All school houses, grounds, furniture and fixtures, and all other property belonging to the board of education for the use of the public schools, shall be exempt from taxation and also from sale on execution, or other process in the nature of an execution. Undisputed possession of real estate for a period of five years shall be deemed to vest the title to the same in the board of education without the execution of a deed.

Sec. 16. The board of education shall have power to make all necessary rules and regulations for the government of the schools of the

district, for the admission of pupils, for the exclusion of pupils whose attendance would be dangerous to the health, or detrimental to the morals or discipline of the schools. To this end, it may establish a truant school or schools, and require such pupils as it deems proper to attend the same.

Sec. 17. The board of education shall further have power to furnish the books and necessary supplies to indigent children attending school, may provide free text books under such regulations as it may deem proper, may provide one or more evening schools for such pupils as are necessarily prevented from attending day school, furnish all books, apparatus and other necessary supplies for the use of the schools, fix the salaries of janitors, and incur all other expenses necessary to make the school system efficient for the purposes for which it was established, and pay the same from the building fund of the district.

Sec. 18. All children, wards and apprentices of actual residents within the district, and between the ages of six and twenty-one years, shall be entitled to admission to the schools of the district, subject to the provisions of sections sixteen and eighteen of this act, and the board may provide for the admission of the children of non-residents under such regulations and for such tuition as it may prescribe.

Sec. 19. The names, numbers and boundaries of the sub-districts shall be and remain as now fixed, but they may be changed at any time by order of the board; *provided*, that the admission of the pupils resident in one sub-district to the schools of another sub-district shall rest with the board; *provided, further*, that should it seem to the board that any pupil would be benefitted by being required to attend the school in an adjoining sub-district, it may, on its own motion, make such transfer.

Sec. 20. Annually, at the first meeting, or as soon thereafter as circumstances will allow, the board may elect a superintendent for the schools of the district and fix his salary; *provided*, that nothing in this act shall prevent the board from contracting with such superintendent for a longer period than one year should it so desire. Such superintendent shall be known as "the superintendent of schools of Church independent school district," and in addition to the duties prescribed in this act shall have such powers and perform such duties as the board shall direct.

The superintendent of schools may be removed from office at any time for incompetency, neglect of duty, immorality, or for any palpable violation of law. But he shall not be so removed except upon

charges preferred in writing by a school commissioner or a taxpayer. A copy of such charges and notice of the time and place set for hearing shall be delivered to him at least five days before the time set for such hearing, and he shall be allowed to present any evidence of his innocence he may desire, and to be heard in his own defense.

A vacancy in the office of superintendent shall be filled by the board of education by appointment, whenever such vacancy shall occur.

Sec. 21. The board of education, upon the recommendation of the superintendent, may appoint as many assistant superintendents as may be necessary, fix their salaries and prescribe their duties.

Sec. 22. It shall be the duty of the superintendent of schools annually, at the first regular meeting of the board or as soon thereafter as possible, to recommend to the board:

First. Two competent persons to act with him as an examining committee.

Second. A sufficient number of teachers to fill schools of the district.

Third. Competent persons to fill vacancies in the offices of trustees in the various sub-districts; and no person shall be eligible to appointment as trustee who resides outside the sub-district for which he is appointed, and his office shall be vacated by his removal from said sub-district.

The board of education may refuse to appoint any or all of the persons so recommended; *provided*, that should the superintendent of schools, within a reasonable time after being required to do so, fail or refuse to recommend a sufficient number of persons under this section to fill vacancies, the board of education may proceed to fill such vacancies without his recommendation.

Sec. 23. Neither the superintendent of schools, nor any assistant superintendent, teacher or supervisor shall directly or indirectly receive any gift, emolument or reward for his influence in recommending the use of any book, apparatus or furniture whatsoever in the schools of the district. And should the board discover that any such person has violated the provisions of this section such person shall forfeit his office at the discretion of the board, in addition to being subject to the penalties provided in the general school law; *provided*, that the acceptance of samples for examination shall not be considered as a violation of the provisions of this section.

Sec. 24. The district superintendent, upon proper examination, may issue teachers' certificates to such persons as are able to pass an examination equivalent in all respects to the state uniform examina-

tion as prescribed by the general school law, which will entitle the holders of such certificates to teach school within the district until the close of the school year in which said certificate is granted; but no such certificate shall be issued to any person more than once, and a report of all such certificates shall be made to the state superintendent of free schools.

The state superintendent of free schools may, at his option, revoke any certificate granted under this section.

Sec. 25. All certificates under the preceding section shall be granted in accordance with the provisions of the general school law.

Sec. 26. The board of education may require that the teachers of the district shall pass an examination on such subjects in addition to those prescribed by the general law as they may deem proper.

Sec. 27. It shall be the duty of the superintendent of schools, with the approval of the board of education:

First. To prescribe the branches to be taught in the high schools of the district.

Second. To carry out the general provisions of the course of study prescribed by the state board of education and to supplement the high school course thus prescribed and to adapt it to the high schools of the district.

Third. To prescribe regulations for the examination and graduation of pupils.

Fourth. To prescribe conditions for admission of pupils to the high schools, to prepare questions for the examination of such pupils, to provide the method of conducting such examinations, to issue certificates to such pupils as are deemed worthy to be admitted to high schools, and to have charge of all matters concerning the same. To this end, he may appoint teachers employed in the schools of the district to assist him, and the board of education may provide for the payment of such teachers out of the building fund, of such compensation as it may deem proper.

Fifth. To revoke any certificate issued by the district superintendent on satisfactory evidence of incompetency, immorality, untruthfulness, drunkenness, or any cause which would have justified the withholding thereof when the same was granted.

Sixth. To keep a register of all certificates issued.

Seventh. To select instructors from the district institute hereinafter referred to, and to issue certificates of attendance to teachers attending the same.

Eighth. To prescribe courses of reading to be pursued by the

teachers of the district, arrange for examining them on the same, and issue certificates of proficiency on the subject so read.

Ninth. To adopt a seal.

Tenth. To select books for school libraries.

Eleventh. To recommend the renewal of first grade certificates.

Twelfth. To acquaint himself with the best methods in the schools of other cities; and to this end, the board of education may appropriate such sums out of the building fund of the district as it may deem proper to pay his traveling expenses.

Thirteenth. To prepare and have printed all necessary forms to be used in the district.

Fourteenth. To make such annual report to the board of education as it may require.

Fifteenth. To provide suitable certificates for graduates of the grammar schools and diplomas for graduates from the high schools and prescribe the manner and circumstances under which the same may be conferred.

Sixteenth. To arrange with other schools and colleges for the recognition of the work done in the district.

Sec. 28. Teachers shall be subject, in all respects, to all rules and regulations adopted by the board of education and they may be removed by said board at any time for incompetency, immorality, untruthfulness, drunkenness, or insubordination, upon complaint of the superintendent of schools or any member of the board. The same rule shall apply to all employes of the board, including trustees of the sub-districts; *provided*, that such action shall be taken only after proper notice and a hearing in which the accused shall be heard in his own behalf.

Sec. 29. All teachers shall be appointed by the board of education upon the recommendation of the superintendent of schools, or upon their own motion. Such appointment shall be made annually at the first regular meeting of the school year and said board of education shall fix such salaries and prescribe such regulations regarding terms of office as it may deem proper.

Sec. 30. The board of education may establish and maintain one or more high schools within the district as they may deem proper; *provided*, the levy for teachers' fund be not increased above the amount prescribed in section twelve of this act.

Sec. 31. The board of education may, and upon the petition in writing of seventy-five per cent of the voters of the sub-district affected, they shall abolish any sub-district or sub-districts and consolidate

the schools of the sub-district so abolished in a new sub-district and define the boundaries of the same, and provide for conveyance and transportation of the pupils to and from school under such rules and regulations as it may prescribe.

Contracts for the transportation 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.

Sec. 32. The board of education may cause to be conducted within the district, one or more district institutes, as they may deem necessary, and may pay the expense of such institutes out of the building fund of the district.

One such institute may be held for a period of five days, at such time during the school year as the board of education may direct. Such institute shall be held in all respects as the county institutes, provided for in the general school laws, except as changed by the following provisions:

First. The district superintendent shall exercise all powers and perform all the duties with respect to such district institute, which are provided to be exercised and performed by the county superintendent, with respect to the county institute.

Second. The district superintendent, with the approval of the board of education and the county superintendent, shall select and appoint the institute instructors and fix the date at which the same is to be held.

Third. The board of education shall fix the compensation to be paid such instructors, and shall pay all expenses of such institute out of the building fund of the district.

Fourth. If such institute is held during the school term, the board of education may at their option, continue the pay of the teachers as though the week were regularly taught, or may pay for such institute attendance in the manner provided in section one hundred and six of chapter forty-five of the code of West Virginia.

Fifth. Attendance at such institute shall exempt the teacher so attending from attendance at the county institute.

Sec. 33. If any person shall mar, deface or otherwise injure any school house, outbuilding, fence, furniture, shade tree, or other school property of the district, the person or persons so offending, shall be liable to prosecution before any court, having jurisdiction, and upon conviction shall be subject to a fine of not less than five dollars and costs of prosecution, and in addition shall be liable to damage done,

which amount, when properly assessed, shall be paid into the building fund of the district.

If the injury be done by a minor, the parent or guardian shall be liable as aforesaid.

If the injury be not of a willful character, the person so offending, or his parent or guardian, shall nevertheless be liable for the damage done.

It shall be the duty of the board of education to ascertain, if possible, by whom the damage was done and to cause the party or parties to be arrested and prosecuted in the name and on the behalf of said board of education. It shall be the duty of all trustees, teachers, and other employes of the board of education to report to them any matter which will lead to arrest and conviction of such persons.

Sec. 34. The board of education may prescribe the circumstances under which the school house of the district may be used for public gatherings.

Sec. 35. The board of education shall have power to provide for medical inspection under provisions of state laws, of the children in the schools of the district, and may pay such inspectors out of the teachers' fund.

Sec. 36. All provisions of the general school law and all laws and acts heretofore existing which are in any manner inconsistent with the provisions of this act, shall be void within the independent school district of Church; otherwise, the said general school law shall remain in full force and effect in this district, as elsewhere in the state.

Sec. 37. This act shall not become effective until the question of the creation of said district shall first have been submitted to the voters of Church district, at an election to be held on the fifteenth day of April, one thousand nine hundred and thirteen, at the general election precincts in said district. The ballots used at said election shall have written or printed thereon, "for creation of independent school district of Church," and "against creation of independent school district of Church," and the said election shall be conducted and the result thereof ascertained, in the manner provided for the conduct of election under the general election laws. In case a majority of the votes cast at said election shall be in favor of the creation of said district, then this act shall be in effect from and after the result of such election is decided.

(House Bill No. 401.)

CHAPTER 65.

AN ACT to authorize and direct the state board of control to sell and dispose of the Fairmont state normal school property, situate in the city of Fairmont, to relocate said school and appropriating therefor such sum of money as is realized from the sale of said school property.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.

1. State board of control authorized to sell grounds and buildings.
2. In event of sale, proceeds to be paid into treasury.

SEC.

3. Appropriation for purpose of relocating and rebuilding.

WHEREAS, By the growth and development of the city of Fairmont the state normal school located at that place is situate in the heart of the city, where real estate is valuable and the price of boarding very high, and at times impossible for students to obtain; and

WHEREAS, The said school having greatly outgrown the capacity of the present building, and the grounds on which it is located being too small to render further building thereon practicable, the citizens of Fairmont have become greatly interested in relocating said school, and have secured and submitted to the state board of control an offer of seventy-five thousand dollars for the grounds and buildings of the said school; therefore,

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the state board of control be and is hereby authorized and empowered to sell the grounds and buildings of the Fairmont state normal school, situate in the city of Fairmont in Marion county, at a price of not less than seventy-five thousand dollars, if in the opinion of said board, the said school can be advantageously relocated on another site at or near Fairmont.

Sec. 2. In the event of the sale, above authorized, the proceeds thereof shall be paid into the state treasury, and the state board of control shall buy and cause to be conveyed to the state of West Virginia a tract of land at or near the city of Fairmont of sufficient size to meet the immediate and future needs of the school, and especially affording land suitable for the teaching of agriculture.

Sec. 3. There is hereby appropriated for the purpose of relocating and rebuilding the Fairmont state normal school, in event of the sale authorized by this act, the sum of thirty-seven thousand five hundred dollars, payable out of the revenues of the year one thousand nine hundred and thirteen, and thirty-seven thousand five hundred dollars, payable out of the revenues of the year one thousand nine hundred and fourteen, which sum shall be expended by the state board of control in the manner provided by chapter fifty-eight of the acts of one thousand nine hundred and nine, for the purpose of relocating and rebuilding the Fairmont state normal school, and for no other purpose.

(House Bill No. 409.)

CHAPTER 66.

AN ACT to amend and re-enact section sixty-two of chapter thirty-two of the code, as last amended and re-enacted by section sixty-two of chapter sixty-seven, acts of the legislature of one thousand nine hundred and eleven, relating to the rate of taxation on real and personal property for state and state school purposes, and the amount of the distributable school fund.

(Passed February 19, 1913. In effect ninety days from passage. Approved by the Governor February 20, 1913.)

SEC. 62. Rate of taxation on real and personal property for state school purposes; board of public works may fix amount of levy; may levy the full amount; the

SEC. distributable fund shall not be less than; to be certified by the board of public works to clerk of county court; duty of county officers.

Be it enacted by the Legislature of West Virginia:

That section sixty-two of chapter thirty-two of the code, as last amended and re-enacted by section sixty-two of chapter sixty-seven, acts of the legislature of one thousand nine hundred and eleven, relating to the rate of taxation on real and personal property for state and state school purposes and the amount of the distributable school fund, be amended and re-enacted so as to read as follows:

Sec. 62. On all real and personal property not exempt from taxation, for the year one thousand nine hundred and thirteen, and thereafter, not to exceed ten cents on the one hundred dollars valuation,

for state and state school taxes, shall be imposed upon real and personal property; *provided*, that the board of public works for the year one thousand nine hundred and thirteen, and thereafter, may reduce and fix the amount of the levy for state and state school purposes to any amount not less than one cent on each one hundred dollars; and, *provided, further*, that said board in its discretion for the year one thousand nine hundred and thirteen, or any year thereafter, may levy the whole of ten cents for state purposes, or may apportion the said ten cents levy to the state and state school fund. *Provided, further*, that the amount apportioned to the distributable school fund from all sources shall not be less than seven hundred and fifty thousand dollars annually. Any act of the board of public works in fixing the levy shall be certified by the president and secretary of said board to the clerk of the county court, the assessor and the sheriff of every county not later than the first day of August of the year for which said levy is to apply; and it shall be the duty of said officers to extend the levy so fixed by the board of public works on the personal property books and the land books of their county.

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

(Senate Bill No. 23.)

CHAPTER 67.

AN ACT to amend and re-enact section two of chapter sixteen of the acts of the legislature of West Virginia, passed February twenty-fourth, one thousand nine hundred and nine, pertaining to the "the school district of Huntington," by enlarging the boundary limits of said school district so as to include territory within the limits of "the independent school district of Guyandotte," created by chapter one hundred and sixty-seven of the acts of the legislature of one thousand eight hundred and eighty-two, thereby making the territory within the limits of "the school district of Huntington," conform to the territory within the limits of the city of Huntington; and to abolish said independent school district of Guyandotte.

(Passed February 8, 1913. In effect from passage. Approved by the Governor February 12, 1913.)

SEC.
2a. School district enlarged; bound-
ary; to be submitted to vote;
duty of boards of education;

SEC.
ballot; officers, voters; con-
flicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That section two of chapter sixteen of the acts of the legislature of West Virginia, passed February twenty-fourth, one thousand nine hundred and nine, be amended by adding thereto section two-a, in words and figures as follows, to-wit:

Sec. 2-a. The territorial limits of said school district of Huntington, as embraced in section two, shall be enlarged by adding thereto a part of the territory included within "the independent school district of Guyandote," the part so added being the territory formerly constituting the territorial limits of the town of Guyandotte, as set out in section two of chapter one hundred and three of the acts of one thousand eight hundred and ninety-seven, of the legislature of West Virginia, to-wit: Beginning at low water mark at the mouth of the Guyandotte river on the east side thereof; thence running up the Ohio river at low water mark to the lower line of D. C. Smith's farming land; thence south across the valley with said line to the county road; thence crossing said road to the northwest corner of A. J. Keenan's lot; thence south with the west line of said lot to the top of the hill; thence west along the top of said hill to the line of the Ohio river railroad land; thence south with the last named line to Pot's branch; thence west down said branch on the north bank thereof to low water mark on the Guyandotte river; thence north down the last named river with its meanderings to the place of beginning, and which is now embraced in the city of Huntington, and designated the fifth ward thereof, in consequence of the provisions of section one hundred and two of chapter three of the acts of the legislature of one thousand nine hundred and nine. The remaining territory of "the independent school district of Guyandotte" shall revert to and become a part of the school district of the magisterial district of Guyandotte embracing all of the territory within the magisterial district of Guyandotte outside of the limits of the school district of Huntington as now embraced by sections two and two-a.

Provided, that before this act shall take effect as to the territory proposed to be added to the said "school district of Huntington" from "the independent school district of Guyandotte" as existing before this act goes into effect, it shall be submitted to the voters of the "school district of Huntington," and "the independent school district of Guyandotte," at a special election to be held in each of said two districts, under the direction of the respective boards of education thereof, to be held on the thirty-first day of May, one thousand nine hundred and

thirteen. The respective boards of education shall see to the calling and holding of such election, giving notice thereof and making appointment of the election officers, canvassing of the returns, and the declaration of the result in the manner prescribed by state laws relating to or covering such an election. The number of voting precincts, and the voting places therein, in each of the two school districts, shall be fixed by the board of education of such school district, which shall be included in the notice calling said election. The fact that said elections were held shall be *prima facie* proof that the notice herein required was duly given, and that all the steps and proceedings relating to the holding of said elections were duly taken as prescribed by law. The ballot to be voted at such election shall have thereon the words "for abolishing the 'independent district of Guyandotte,' and adding the territory thereof to the 'Huntington school district' and the magisterial school district of Guyandotte, respectively," and "against abolishing the 'independent district of Guyandotte,' and adding the territory thereof to the 'Huntington school district' and the magisterial school district of Guyandotte, respectively." If a majority of the votes cast in the "school district of Huntington," and "the independent school district of Guyandotte" shall be for said proposition, then upon the declaration of said result, the territory set out in section two-a herein shall *ipso facto* be and remain a part of the "school district of Huntington," and shall thereafter be subject to the provisions of this act; and the rules, ordinances and laws pertaining to said independent school district of Huntington shall *ipso facto* extend to and over the territory embraced in section two-a herein; and the authorities and other officers of said school district of Huntington shall extend to and hold their powers and authority over said territory; and "the independent school district of Guyandotte" shall *ipso facto* be abolished, and the powers and authority of the board of education thereof shall cease, and all of the property, records and other things pertaining to said independent school district of Guyandotte shall forthwith come into the possession of and under the control of the board of education of the said school district of Huntington, and the board of education of the independent school district of Guyandotte and other officials thereof shall make due and proper accounting to the board of education of the school district of Huntington, and all claims and debts due to said district may be collected by the board of education of the school district of Huntington in its own name. Said school district of Huntington shall assume and pay off the legal debts of said independent school district of Guyandotte. In taking

the vote herein provided for, no registration of the voters shall be required, but all persons otherwise qualified by law to vote at such election shall be permitted to vote; and the election precincts so fixed by the boards may contain more than two hundred and fifty votes each.

All acts and parts of acts coming within the purview of this act and in conflict with the provisions of this act are hereby repealed.

(Senate Bill No. 76.)

CHAPTER 68.

AN ACT to create and establish the independent school district of St. Albans in the county of Kanawha, state of West Virginia.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 6, 1913.)

SEC.

1. If a majority vote in favor, the independent school district is established; boundaries.
2. Board of education shall consist of three; who eligible; powers, duties, etc.; election; term of office.
3. Board meeting; organization; compensation.
4. Board; rights and powers.
5. Board, power; bonds; branches to be taught.
6. Admission to various schools.
7. Sheriff to collect and disburse.
8. Appoint superintendent; salary, his duties.
9. Board shall meet, employ teachers, fix salaries, etc

SEC.

10. Duty of board as to buildings, furniture, etc.; may levy a tax; building fund.
11. Shall levy tax "for teachers' fund."
12. Assessment; how collected.
13. Election; tickets; how held; notice published.
14. Members of board to serve without compensation; vacancy, how filled.
15. President to have one vote; oath; duties.
16. Board shall hold stated meetings; quorum.
17. Body corporate.
18. Shall establish one or more schools for colored children.
19. Inconsistent laws void.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event of a majority of the votes cast at an election to be held on the second Tuesday in March, one thousand nine hundred and thirteen, in Jefferson district, be in favor thereof, the following described territory, in the county of Kanawha, shall after the result of such election is ascertained and declared, be the independent school district of St. Albans, to-wit:

Beginning at a stake on the bank of the Kanawha river at the mouth of Coal; thence up Coal river with the meanders thereof to a stake about 170 feet below the mouth of Dry Branch; thence north 68 east 150 feet, crossing the Coal river railroad to a stake corner to the land owned by Ella A. Drew; thence with the division line between

the property owned by said Ella A. Drew and the property formerly owned by the Central Land company, north 4 45" east 880 feet to a stake on the north side of the county road; thence north 75 east 2400 feet to a stake; thence north 7 15" east 2980 feet to a stake on the bank of the Kanawha river; thence down same with meanders thereof to the beginning.

Sec. 2. The board of education of said district shall consist of three members, who to be eligible to election as such members of said board shall have paid either directly or indirectly, for the preceding year, in such territory, taxes on either real or personal property, or both, of the assessed value of five hundred dollars or have children of school age, and shall reside in said independent school district and not be absent therefrom more than ninety consecutive days during his term, who shall be elected by the qualified voters resident therein and shall be vested with the same rights and exercise the same powers, perform the same duties, receive the same compensation and be governed by the same laws that boards of education otherwise than those of independent school districts are governed by, except in so far as changed by the provisions of this act. No person engaged in the profession of school teaching nor any person holding any public office shall be eligible to election to or hold office as a member of the board of said independent school district, and in the event of the establishment of St. Albans independent school district, a board of education shall be elected on the second Tuesday in June, one thousand nine hundred and thirteen, who shall serve until their successors are elected and qualified, except that one member shall be elected for one year, one for two years and one for three years, and their terms of office shall begin on the first day of July, following election; and after said first election, one member shall be elected every year for a term of three years on the second Tuesday in June; after the first election all subsequent elections shall be held at the city hall in the town of St. Albans, and after two weeks notice in all the newspapers published in said independent school district, and by officers to be appointed by the board of education who shall have the use of the current registration list of said independent district without cost; the election to be held on the second Tuesday in March and second Tuesday in June, one thousand nine hundred and thirteen, shall be conducted by commissioners to be appointed by the county court of Kanawha county, and shall be at the usual voting places in the territory wherein such election is required to be held.

Sec. 3. At the first meeting of the board, which is hereby required to be held on the first Monday in July of each year, or as soon thereafter as practicable, the board shall organize by electing one of their members president; and shall also elect a secretary, who shall not be a member of the board, who shall perform the duties prescribed by said board and shall be allowed a compensation not to exceed fifty dollars per year.

Sec. 4. The said board shall succeed to and have all the rights of the school property heretofore exercised, held and owned by the council of the town of St. Albans, *ex officio* the board of education of the town of St. Albans, and assume all liabilities of the present board of education of said town of St. Albans, which present board shall turn over and account to the new board of education elected pursuant to the provisions of this act, all moneys, accounts and property within its control or in the control of the sheriff of said county, which may be the property of said independent school district of St. Albans. The said board shall have exclusive control of all schools within said 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 and for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the morals or discipline of the school; they may prescribe a uniform list of text books for the use of the school in the independent school district, but such list to conform to those provided by general law, and may furnish hooks and stationery for indigent children in attendance at the school; they may furnish all necessary apparatus and books for the use of the school, and incur all other necessary expenses 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. 5. The board of education shall have power to establish within the independent school district such schools, including a high school, by such name as may be prescribed by said board, as may in their judgment, be best for the interest of the independent school district, and may issue bonds to raise sufficient funds wherewith to establish such schools; but no such schools shall be established, nor shall any bonds be issued till the question of the establishment of such schools and of the issuance of such bonds, be first submitted to the legal voters of the district at some election for school officers in said independent school district, and a two-thirds vote of the voters voting, be cast in favor of the establishment of such high school and the issuance of such bonds.

The branches to be taught in the high school and other schools in the independent school district shall be such as prescribed by the board of education; the schools of the independent school district shall be subject to such grading as the board may direct; the said high school shall be open to all white pupils in the district, but no pupil shall be entitled to enter it until the superintendent of the schools within the said independent school district shall have satisfied himself that the said pupil has made due proficiency in the branches in the other schools of the said independent school district.

Sec. 6. Admission to the various schools in the district shall be gratuitous to all white children, wards and apprentices, or actual residents within the independent school district between the ages of six and twenty-one years; *provided*, that pupils, who are non-residents of the district, may be allowed to attend the schools of the independent school district upon payment in advance of such tuition as the board of education may prescribe.

Sec. 7. The sheriff, in the collection and disbursements of the funds raised by the said district for school purposes, shall receive the same commissions, make the same settlements and require the same vouchers in making disbursements of funds, as required by the general law in dealing with other boards of education in the same matter.

Sec. 8. Annually on the first Monday of July, or as soon thereafter as circumstances will allow, the board shall appoint a superintendent of the schools for the independent school district, and fix his salary for the school term. And such superintendent, in addition to his general supervision over the schools of the independent district, shall perform such other duties as the board of education shall prescribe or as are required by this act; he shall be liable to removal by the board for any of the causes and in the same manner as provided by general law for the removal of teachers employed to teach in the public schools of this state; and in the event of his removal the board shall fill the vacancy for the unexpired term. It shall be the duty of the superintendent to make such report to the board of education, of the character and condition of the schools of the district, as shall enable the secretary to make his required report to the county superintendent. The superintendent shall not receive directly or indirectly any gift, emolument or reward for his influence in recommending the use of any book, apparatus, or furniture of any kind whatever in the schools of the independent school district. For any violation of this provision he shall be guilty of a misdemeanor, and upon conviction

thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 9. On the first Monday in July or as soon thereafter as practicable in each year, the said board of education shall meet and employ the necessary number of teachers for the different schools and rooms in the independent school district. And the board of education of said independent school district shall fix the salaries to be paid the teachers necessary to be employed in said schools, at its first meeting in July, of each year; and all the teachers employed may be removed by the board for the same cause and in the same manner as provided for removal of teachers by general law. All appointments of teachers shall be made at a regular meeting of the board, of which meeting all members shall have due notice. Contracts with teachers shall follow the form prescribed by the state superintendent of schools and shall be filed with the secretary of the board at least three weeks prior to the beginning of the term.

Sec. 10. It shall be the duty of the board of education to provide by purchase, condemnation, leasing, building or otherwise, school houses and grounds, furniture, fixtures and appendages, and keep the same in good order and repair and to supply the school houses with fuel, lights, and other things necessary for their comfort and convenience; to pay the principal and interest on any bonds issued under the provisions of this act, and also all bonds heretofore issued by the council of St. Albans, *ex officio* board of education and all other necessary expenses incurred in the independent school district in connection with the schools not chargeable to teachers' fund. For the purposes mentioned in this section, the board of education shall annually levy a tax on the property taxable in said independent school district, not to exceed in any one year the amount provided by general law; the proceeds of the taxes so levied, of the school houses and sites sold, of all donations, devises and bequests applicable to the purposes mentioned in this section, shall constitute a special fund to be called the "building fund," to be appropriated expressly for the purposes named in this section.

Sec. 11. In addition to the levy named in the preceding section, the board of education shall, for the purposes of the schools of the independent school district, annually levy a tax on the taxable property of the district, as will from the money received from the state for the support of free schools, be sufficient to keep the schools in operation not less than nine months in the year; *provided*, that the said

tax shall not exceed in any one year the rate of twenty-five cents on each hundred dollars valuation according to the latest available assessment for county and state purposes; *provided, further*, that a special levy may be laid as provided by general law; the proceeds of these levies together with the money received from the state as aforesaid, shall constitute a special fund to be called the "teachers' fund," and no part thereof shall be used for any other purpose than the payment of teachers and the salary of the superintendent and any assistant that may be appointed.

Sec. 12. The assessment made under the provisions of this act shall be collected as now provided by law. The board of education shall not during any year incur any expense that shall exceed the amount of the available funds received for school purposes during the year.

Sec. 13. The election to be held on the question of the establishment of the independent school district of St. Albans shall be by ballot, and those voting in favor of the independent district shall have written or printed on their tickets the words "for independent district," and those voting against the independent district shall have written or printed on their tickets "against independent district." The election shall be superintended, conducted and the results thereof ascertained and declared by the officers hereinbefore provided for, and after notice published for two successive weeks in at least two newspapers published in the district, if there be such, next prior to the time of holding said election, and such notice to be published by the secretary of the board of education of Jefferson district. All elections held in pursuance of this act shall be held in compliance with the general election laws of this state except as herein otherwise provided.

Sec. 14. Members of the board elected or appointed pursuant to the provisions of this act shall serve during their respective terms of office without compensation.

Any vacancy that may occur in the office of school commissioner by death, resignation or from any cause, shall be filled by the board of education of the independent school district at their first regular meeting thereafter, or as soon as circumstances will permit, by the appointment of a suitable person, who shall hold his office until the next election of school commissioners or members of the board of education, when a member of said board of education shall be elected to fill the unexpired term.

Sec. 15. The president shall have one vote as a member of said board and shall not vote on any question arising in the board more

than once by reason of being the presiding officer; the president and other members of the board of education and secretary shall, before entering upon the discharge of the duties required of them, take the oath of office required to be taken by presidents, members and secretaries of boards of education in said county; the secretary shall record in a book provided for the purpose, all the official acts and proceedings of the board, which shall be a public record, open to the inspection of all persons interested therein, and shall perform all such other duties which are not inconsistent with this act, which are required of secretaries of the several boards of education in the county, and for his services as such secretary the board shall fix his salary as hereinbefore provided.

Sec. 16. 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 when he shall deem it necessary, or at the request of the other two members, by the secretary, but no special meeting shall be held unless all the members have notice of the time and place of holding same. The concurrence of two members of the board shall be required to elect teachers and to decide all questions involving expenditures of public money, or for any other business whatever.

Sec. 17. The board of education of the independent school district of St. Albans shall be a body corporate, and as such may purchase, hold and grant estate, real and personal, contract, sue and be sued, plead and be impleaded, may receive any gift, grant, donation or devise and do other corporate acts; they shall have the management and be vested with the title of all real and personal estate for the use of the public schools within the independent school district, and shall so manage and dispose of the same as will in their opinion best subservise the interest of the independent school district.

Sec. 18. The board of education shall establish within the district, one or more separate schools for colored children whenever they deem it necessary, so as to afford them as far as practicable, the advantages and privileges of a free school education.

Sec. 19. All provisions of the general school law of this state and all laws and acts heretofore existing which are in any manner inconsistent with this act shall be void within the independent school district; otherwise, the said general school laws shall remain in full force and effect therein.

(Senate Bill No. 127.)

CHAPTER 69.

AN ACT to amend and re-enact section eighty-seven of chapter forty-five of the code as amended and re-enacted by the legislature of one thousand nine hundred and eight, relating to the duration of teachers' certificates.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.
87. Duration of certificates; renewal and register of; first, second and third grade.

Be it enacted by the Legislature of West Virginia:

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

Sec. 87: First grade certificates shall be valid for a period of five years and shall be renewable as follows:

At the end of the first five years they shall be renewable on condition that the holder has taught successfully or has been engaged in public school work at least three years during the life of the certificate, and on the further condition that he make a passing grade on elementary agriculture, provided he has not already passed on that subject.

At the end of the second or third five-year period they shall be renewable on condition that the holder has taught or has been actively engaged in public school work three years during the five years previous, and on condition that the applicant pass a satisfactory examination on two of the books of the state reading circle course to be designated by the state superintendent of free schools, or has done satisfactory work for a period of nine weeks in a recognized state normal school, or in some other school of equal rank and standing, or has done other work of equal value. (The state superintendent of free schools shall determine what schools shall be recognized and the nature of the work which shall be accepted in carrying out the provision of this section).

At the termination of the third renewal period the holder of such certificate shall be eligible to receive a first grade certificate good for life if he has taught at least three years of the last five and has maintained an active interest in educational work.

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 no more than one certificate of the same grade shall be issued to an applicant in a school year, but applicants 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.

(Senate Bill No. 169.)

CHAPTER 70.

AN ACT to revise, amend, re-enact and re-number sections two hundred and thirty-six, two hundred and thirty-seven, two hundred and thirty-eight, two hundred and thirty-nine, two hundred and forty, two hundred and forty-one, two hundred and forty-two, two hundred and forty-three, two hundred and forty-four, two hundred and forty-five, two hundred and forty-six, two hundred and forty-seven, two hundred and forty-eight, two hundred and forty-nine, two hundred and fifty, two hundred and fifty-one and two hundred and fifty-two of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, set forth in serial sections from one thousand seven hundred and ninety-nine to one thousand eight hundred and six-a-nine, both inclusive, of the one thousand nine hundred and nine supplement to the code, relating to the West Virginia reform school.

(Passed February 8, 1913. In effect ninety days from passage. Approved by the Governor February 11, 1913.)

SEC.

1. Name; location; male youth; managed.
2. Inmates—under eighteen, over ten years; who may be committed and for what; justice of the peace may commit.
3. Inmates—males under eighteen years of age, convicted of crime, may be confined in industrial school.
4. Duty of justice of peace when committing a youth.
5. Proceedings before justice; the

SEC.

- youth shall be represented; may have a jury; appeal.
6. Officers' and jurors' fees.
7. How conveyed to the school; who shall not be lodged in jail; expenses, how paid.
8. Aiding, abetting to escape or violate rules; to give or sell firearms, intoxicating drinks, tobacco, etc., unlawful, penalty; who may arrest; escape from school.
9. Who may be returned to the court

- | | |
|--|---|
| <p>SEC. and sentenced to the penitentiary.</p> <p>10. Amount to be paid by county court in state treasury; in what cases county is reimbursed; how.</p> <p>11. List of inmates by counties; charging maintenance of inmates to county; money shall be applied.</p> | <p>SEC.</p> <p>12. Auditor shall certify list and statement to county court; duty of court; auditor may apply to circuit court; when.</p> <p>13. State board of control have authority to; expenses, how paid.</p> <p>14. Inconsistent acts repealed.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

That sections two hundred and thirty-six, two hundred and thirty-seven, two hundred and thirty-eight, two hundred and thirty-nine, two hundred and forty, two hundred and forty-one, two hundred and forty-two, two hundred and forty-three, two hundred and forty-four, two hundred and forty-five, two hundred and forty-six, two hundred and forty-seven, two hundred and forty-eight, two hundred and forty-nine, two hundred and fifty, two hundred and fifty-one and two hundred and fifty-two of chapter twenty-seven of the acts of one thousand nine hundred and eight, extra session, set forth in serial sections from one thousand seven hundred and ninety-nine to one thousand eight hundred and six-a-nine, both inclusive, of the one thousand nine hundred and nine supplement to the code, relating to the West Virginia reform school, be and the same are hereby revised, amended, re-enacted and said sections re-numbered so as to read as follows:

Sec. 1. "The West Virginia reform school," established by chapter three of the acts of one thousand eight hundred and eighty-nine, shall hereafter be known and designated as the "West Virginia industrial school for boys," and shall be conducted in the buildings heretofore and hereafter erected for that purpose at Pruntytown, in Taylor county. This school shall be exclusively charged with the care and training of male youth of the state, but white and colored shall be kept separate. It shall be managed, controlled and governed by the state board of control, as provided in chapter fifty-eight of the acts of one thousand nine hundred and nine.

Sec. 2. Any male youth under the age of eighteen, and not under the age of ten years, may be committed to and received into the West Virginia industrial school for boys for the reason 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 person having the custody and control of such youth, that by reason of incorrigible or vicious conduct such youth 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 youth and 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 youth is a vagrant, incorrigible or vicious in disposition and conduct, and that his parents, guardian, or other person having custody of or authority to control him, are depraved or otherwise unfit, unwilling or unable to exercise care or discipline over such youth.

Third—By the several courts of this state, as provided in the next section.

Sec. 3. Whenever any male youth under the age of eighteen years, shall be convicted in any of the courts of this state of felony or a misdemeanor, punishable by imprisonment, the judge of said court in his discretion, and with reference to the character of the industrial school as a place of correction and not of punishment, instead of sentencing said youth to be confined in the penitentiary or county jail, may order him to be removed to and confined in the said industrial school, to remain until he shall have arrived at the age of twenty-one years, unless sooner discharged by the state board of control. Male youth under eighteen years of age, convicted in any of the courts of the United States for the districts of West Virginia, of any offense punishable by imprisonment, may also be received into said industrial school upon such regulations and such terms as to their maintenance and support as may be prescribed by the state board of control, and assented to by the proper authorities of the United States.

Sec. 4. It shall be the duty of the justice of the peace when committing a youth to the industrial school under the first and second clauses of section two of this chapter, in addition to the commitment, to annex to said 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, together with full answers to such interrogatories respecting the history of the case and the mental and physical health of the youth, as shall be prescribed by the board of control, and furnished in printed form, on application, by the superintendent of the industrial school.

Sec. 5. In all proceedings before justices of the peace for commitment of youth to the industrial school under the first and second

clauses of section two of this chapter, the justice shall appoint some discreet and disinterested person guardian *ad litem* for such youth, whose duty it shall be to represent the interest of the youth and see that no injustice is done him; and the guardian *ad litem* or the youth shall have the right to demand a jury of twelve men to try the truth of the charges made against the youth, and the jury shall be selected, and the trial shall be conducted in the same manner as is provided by law for the trial of criminal cases before justices by juries. And the guardian *ad litem* or the youth shall have the same right of appeal from any final decision rendered against the youth in any such proceedings, whether upon a trial by jury or otherwise, as is allowed by law in other criminal cases tried before justices.

Sec. 6. Justices, constables and jurors shall receive the same fees in a proceeding for committing a youth to the industrial school as are allowed by law for similar services in misdemeanor cases, and such fees shall be paid in like manner as fees of such officers and persons are paid in misdemeanor cases.

Sec. 7. As soon as is practicable after a youth, on any account, is committed to the industrial school the papers in the case shall be mailed to the superintendent, and such youth shall remain in the custody of the court pronouncing such commitment, until he be delivered to an officer of the industrial school, who shall be sent without delay, and duly authorized by the superintendent to conduct such youth by the most direct and convenient route to the said school; but no youth committed to the industrial school shall be lodged in any jail or lockup, if he be under the age of twelve years. The superintendent shall, in so far as is consistent with the safe conveyance of youth to the school, cause as many youths from the same or several counties to be conducted to the school at the same time. The expense incurred in conducting a youth to the industrial school, including transportation and other necessary traveling expenses of the youth and of his conductor, shall be paid by the county court out of the treasury of the county from which the youth was committed to the school, and a written statement of such necessary expenditures, fully itemized and sworn to by the officer making such expenditures, and attested by the superintendent of the school, when presented to any county court, shall be a bill against such court, to be paid to the industrial school, and credited to that fund of the school from which the original expenditure was made; but when two or more youths shall be so conducted from more than one county, the necessary expenditure on the personal account of the conductor

shall be apportioned among the counties concerned in due proportion to the mileage traveled by the youth from the respective counties.

Sec. 8. If any person shall entice or attempt to entice away from the industrial school any youth legally committed to the same, or shall aid or abet any youth to escape from the industrial school, or shall harbor, conceal, or aid or abet in harboring or concealing, any youth who shall have escaped therefrom, or shall, without the permission of the superintendent, give or sell, or aid or abet any other person to give or sell, to any youth in the industrial school, whether on the premises of such institution or otherwise, any money, firearms, intoxicating drinks, tobacco, cigarettes, or other articles whatsoever, or shall in any way cause or influence, or attempt to cause or influence or aid or abet therein, any youth in the industrial 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 youth anything 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 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 his assistants or any one authorized in writing by him, or any sheriff, constable, policeman, or other peace officer, shall have power, and it is hereby made his duty to arrest any youth when in his power to do so who shall have escaped from said school, and return him thereto.

Sec. 9. In any case where a youth is committed to the industrial school for an offense punishable by confinement in the penitentiary, and it is found by the state board of control that the industrial school is unable to benefit such youth, and that his presence is a detriment or menace to other youth 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 should have done had it not sentenced him to the industrial school. And the governor shall have power, when in the judgment of the warden of the penitentiary and the superintendent of the industrial school it is advisable, to remit the penalty of any offender under the age of eighteen years confined in the penitentiary, to a commitment to the industrial school.

Sec. 10. The county court of every county shall pay into the state

treasury the sum of fifty dollars a year on account of each youth from the county who shall be received in said school of the first, second or third classes mentioned in section two. But in all cases of youth received in said school of the first class mentioned in section two, the parent, if of sufficient means, and the guardian where the youth has sufficient estate, shall annually reimburse the county the amount paid into the state treasury, by virtue of this section, on account of such youth mentioned in the first class of section two, and the county court of such county shall have a right to recover the same of such parent or guardian in any court of competent jurisdiction.

Sec. 11. The superintendent of said school shall before the tenth day of January in each year, make out and certify to the auditor and the state board of control each a list by counties of all such youth 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 youth 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 youth who was kept in such school during the preceding year, and a proportionate amount on account of each youth kept in school for any part of such year less than the whole.

Any money in the treasury of the state to the credit of any such county from whatever source arising, and not appropriated to pay any other debt of the county to the state, shall be applied, so far as necessary, to the payment of the sums so charged; if any sum in the treasury due the county shall not be sufficient to pay the whole amount so charged against it, such sum shall be applied as a credit on the amount charged, and the balance shall remain a charge against the county.

Sec. 12. Within ten days after receiving such list the auditor shall certify to the county court of such county a list of the youth from the county in such school, stating the class to which each belongs, the length of the term during the year he was in such school, as shown by the list certified by the superintendent, and the amount due from the county on his account and the total amount due on account of all. He shall credit on such statement whatever amount has been applied as a payment thereon from any funds of the county in the treasury.

Such statement shall be a receipt to the county for any amount so credited, and shall be a bill for any amount still appearing to be

due from the county. Unless the bill shall have been paid by the application of funds of the county in the state treasury, the county court shall at its next levy term provide for the payment of the same, or such part as may not have been paid, and cause the amount to be paid into the state treasury.

If the amount so due from any county be not paid in a reasonable time after such levy term, the auditor may, in the name of the state, apply to the circuit court of the county for a mandamus to require the county court to provide for and to pay the same, or he may proceed in the name of the state by any other appropriate remedy to recover the same.

Sec. 13. The state board of control shall have authority, under such rules and regulations as they may prescribe, to grant, on recommendation of the superintendent, a parole to any inmate of the industrial school; but while said inmate is on such parole, and until he is discharged according to law, he shall remain in legal custody of the board of control, and subject at any time to be returned to the industrial school, if in the judgment of the board the interests of such paroled inmate will best be served thereby. The written order of said board, certified by the superintendent, shall be sufficient warrant for any officer named therein to arrest and return to the school said paroled inmate, and it is hereby made the duty of any peace officer, or other person, so named, to make such arrest and return such youth to the industrial school. All actual expenses incurred in returning to the school paroled inmates shall be paid out of funds appropriated for the maintenance of the industrial school.

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

(Senate Bill No. 190.)

CHAPTER 71.

AN ACT to amend and re-enact section one hundred and seventy-two of chapter twenty-seven of the acts of the extra session of the legislature of one thousand nine hundred and eight, relating to the West Virginia university.

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC.
172. Departments of university; condition for graduation; degrees; diplomas; agriculture; extension schools; demonstrations

SEC.
at fairs, institutes, etc.; boys' and girls' clubs; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That section one hundred and seventy-two of chapter twenty-seven of the acts of the extra session of the legislature of one thousand nine hundred and eight, be and the same is hereby amended and re-enacted so as to read as follows:

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 degree, and the diploma issued on 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.

That, in order to promote the improvement and advancement of agriculture, domestic science and rural life among the people of the several counties of the state of West Virginia, there be and is hereby created and established in the college of agriculture, at West Virginia university, an agricultural extension department to be co-ordinate with the department of instruction and the agricultural experiment station.

The work of the agricultural extension department of the college of agriculture shall be conducted under such rules, regulations and methods as may be prescribed by the state board of regents and every expenditure under this act shall be approved by the state board of control, and said work shall consist of holding extension schools in the various counties of the state, at which instruction shall be given in soil fertility, horticulture, stock raising, crop production, dairying, domestic science and kindred subjects; of conducting farmers' institutes; of giving demonstrations in orcharding, soil improvement, and crop production; of furnishing speakers and exhibits for special agricultural trains; of giving instruction and demonstrations at agricultural fairs, farmers' institutes, clubs, granges, or other organizations that may be useful in extending agricultural knowledge; of

conducting, in co-operation with the United States department of agriculture, boys' and girls' agricultural clubs; of recommending county agricultural agents and supervising and assisting them in advancing the agricultural interests of their respective counties; of giving instruction by mail in agriculture, domestic science, and kindred subjects; of publishing bulletins, circulars, and newspaper articles; and of such other methods as may carry the benefits of the work of the colleges of agriculture, the agricultural experiment station and the United States department of agriculture to the people of the several counties of the state; and all such itinerant educational work in agriculture and home economics carried on under appropriations by or to this state shall be under the control and supervision of said agricultural extension department.

All other acts or parts of acts in conflict with the provisions of this act are hereby repealed.

(Senate Bill No. 199.)

CHAPTER 72.

AN ACT to enable the board of directors of Clay county high school to raise sufficient funds with which to complete and furnish their school building now under construction.

(Passed February 13, 1913. In effect ninety days from passage. Approved by the Governor February 14, 1913.)

SEC. 1. Authorized to lay levy sufficient to complete and furnish building.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the board of directors of Clay county high school is hereby authorized to lay a levy for the year beginning on the first day of July in the year one thousand nine hundred and thirteen, for an amount sufficient to complete and furnish the school building now being erected by said board of directors of Clay county high school, but not to exceed twenty-five cents on each one hundred dollars valuation for taxable purposes for said year.

(House Bill No. 14)

CHAPTER 73

AN ACT to amend and re-enact sections six, seventeen, eighteen, twenty-four, thirty-nine, seventy-three, seventy-eight, seventy-nine, eighty-five and one hundred and four of chapter three of the acts of one thousand nine hundred and nine, entitled, "an act to amend and re-enact chapter one hundred and fifty of the acts of one thousand nine hundred and one, incorporating the city of Huntington, as amended by chapter seventy-one of the acts of one thousand nine hundred and three, chapter eight of the acts of one thousand nine hundred and five, and chapter five of the acts of one thousand nine hundred and seven, of the legislature of West Virginia; and to amend and re-enact chapter nine of the acts of one thousand nine hundred and five, of the legislature of West Virginia, relating to the paving and macadamizing of the avenues and alleys of said city of Huntington; and to change and enlarge the corporate limits of said city of Huntington, so as to include the territory heretofore included in the corporate limits of the city of Central City and additional territory adjacent thereto, and to consolidate into one act a charter for said city of Huntington as constituted by this act," and to authorize said city to lease, or purchase or erect, operate and maintain a system of water works.

(Passed February 4, 1913. In effect ninety days from passage. Approved by the Governor February 10, 1913.)

<p>SEC. 6. Powers of board of commissioners defined. 17. Departments of city government. 18. Defining titles of heads of departments; duties and powers. 24. Additional officers. 39. Bond of officers. 73. Annual tax on real estate and personal property; license tax on</p>	<p>SEC. certain property; additional levy. 78. Paving streets and constructing sewers and water works. 79. Power to issue bonds for public improvements. 85. Bond issue to pay for paving and sewer construction; three-fifths vote of people necessary.</p>
--	---

Be it enacted by the Legislature of West Virginia:

That sections six, seventeen, eighteen, twenty-four, thirty-nine, seventy-three, seventy-eight, seventy-nine, eighty-five and one hundred and four of chapter three of the acts of one thousand nine hundred and nine, be amended and re-enacted so as to read as follows:

Sec. 6. The board of commissioners of said city shall have and

are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, grade and pave streets, sidewalks and gutters, for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic passing thereover; to change name of any street, the renumbering of houses on any street, avenue, or road therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city, to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the city and such company, upon such terms as may be prescribed in the contract, but such bridge shall be a public highway, and the interest of the company shall be only such proportionate part thereof as it may pay for; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine, the bringing into the city by steamboats, railroads, or other carriers, of paupers, or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill fame, houses of assignation and gaming houses, or any part thereof, and to punish gaming; to prohibit within said city or within one mile thereof slaughter houses, soap or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction regulations, affecting the construction of the same, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to a city architect or building inspector; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to

prevent obstruction therein, and to determine at whose expense the same shall be done; to build and maintain fire station houses, water works, police stations, and police courts, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares and parks, either within or without the city limits as hereinafter defined, and, when the board of commissioners determines that any real estate is necessary to be acquired by said city for any such purpose, or for any public purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent and upon the same conditions as such power is conferred upon public corporations by chapter forty-two, of the code of West Virginia, of the edition of one thousand nine hundred and six, and as now amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate, including libraries and hospitals, deemed proper for the use of such city; and, for the protection of the public; to cause the removal of unsafe walls, or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances, and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping of gun powder and other combustible or dangerous articles; to regulate, restrain or prohibit the use of fire-crackers or other explosives or fireworks, and all noises or performances, which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulations for guarding against danger or damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Cabell county to keep and maintain the poor or any number thereof, upon terms to be agreed upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same so as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theatres, circuses, the exhibition of showmen and shows of any kind,

and the exhibition of natural or artificial curiosities, caravans, menageries, and musical exhibitions, and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and to provide necessary apparatus, engines, and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals, and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof, and other things, through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same; and what shall be sold in such market, and to acquire and hold property for market purposes; to regulate the placing of signs, bill boards, posters and advertisements in, on or over the streets, alleys, sidewalks and public ground of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium, and poisonous drugs; to appoint and fix the places of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, telephone plants, electric light works and water works, or ferry boats, in or near the city, and to operate the same, and sell the products and services thereof to the inhabitants and industries of the city, and the inhabitants and industries of territory outside the city, under such rules and regulations, and for such compensation as the board of commissioners may from time to time prescribe, and to do any and all things necessary and incidental to the conduct of such business, including the right in any franchise hereafter granted to fix and change the charges and prices for which the service or article of the person or company operating any such plant or works, or any other public utilities or public service corporation under such future franchise, may be held by their patrons, or consumers; to build, hold,

purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same, and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies, and slaughter houses, whether in or outside of the city where the milk and meat therefrom are offered for sale within said city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violation of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of any payment of fines, penalties or costs under this act, who are otherwise unable or fail to discharge the same, by putting them to work for the benefit of the city upon the streets or other places provided by said city, and to use such means to prevent their escape while at work as the board of commissioners may deem expedient; and the board of commissioners may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against them are thereby discharged; to compel the attendance at public meetings of the members of the board of commissioners; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six. For all such purposes, except that of taxation, the board of commissioners shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part of any other state within said one mile limit; *provided, however,* that nothing herein contained shall be construed as limiting the city from going beyond its territorial limits to lease, purchase or erect, operate and maintain a water plant, or system, or any part thereof, or from furnishing and selling water to customers outside the city.

Said city of Huntington, as constituted by this act, shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to said

city of Huntington, and said city of Central City, and the town of Guyandotte as heretofore constituted.

And the board of commissioners shall have the right to establish, construct and maintain landings, ferries, wharves and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter, or remove any such landings, ferries, wharves, buildings, or docks which have been, or shall be so constructed, and to levy and collect reasonable duty on vessels, and other crafts coming to, or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits.

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

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

To carry into effect these enumerated powers, and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the board of commissioners of said city shall have the power, in the same manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment; and, with the consent of the county court of Cabell

county entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

ARTICLE IV.

Departments of City Government.

Sec. 17. In order to better dispatch the business of the city, and assign more in detail the duties of the members of the board of commissioners, the government of said city is hereby divided into four departments, to-wit:

Department of fire, police and law.

Department of finance, taxation, water works and public utilities.

Department of streets, sewers, wharf, public buildings and grounds.

Department of health and charity.

Sec. 18. The mayor at the first regular meeting of the board of commissioners following their election and qualification shall designate himself and each of the other commissioners at the head of one of the said departments of government, and the commissioner thus assigned shall be styled the commissioner of that department, to-wit:

Commissioner of fire, police and law.

Commissioner of finance, taxation, water works and public utilities.

Commissioner of streets, sewers, wharf, public grounds and buildings.

Commissioner of health and charity.

And he shall have the immediate care and supervision of his department, but subject always to the control of the board of commissioners. The business and the labors incident thereto of each of the departments shall be that which properly falls within the scope of the particular department, but which, in details, may be fixed from time to time by the board of commissioners. The head of each department shall see to the performance of all business coming within his department, or which may be referred thereto, or to any officer thereunder, from time to time, and the commissioner of health and charity, as a part of his duties, shall establish and maintain a free employment bureau.

ARTICLE VI.

Additional Officers.

Sec. 24. In addition to the municipal authorities mentioned in section four of this act, said city shall have a city clerk, treasurer, auditor, police judge, city attorney, superintendent of water works, collector of water rents, chief of police, chief of fire department, city

engineer, health officer, and such other officers and agents as the board of commissioners may from time to time create or employ. The election of all appointive officers named or provided for in this section shall be vested in the board of commissioners.

Bond of Officers.

Sec. 39. Each member of the board of commissioners, and the city clerk, treasurer, auditor, city attorney, superintendent of water works, collector of water rents, city physician, chief of police, and chief of fire department shall, before entering upon the discharge of their duties, give an official bond, conditioned for the faithful performance of their respective duties as prescribed in this act or any ordinance now or hereafter passed in amounts as follows:

Each commissioner, five thousand dollars; the treasurer, sixty thousand dollars; the superintendent of water works, five thousand dollars; the collector of water rents, twenty thousand dollars; the auditor, two thousand dollars; the city clerk, three thousand dollars; the city attorney, city physician, chief of police and the chief of the fire department, each one thousand dollars.

The board of commissioners may require additional bond from any of said appointive officers, and may likewise require a bond, in whatever sum they may fix, of any other appointive officer. All bonds of appointive officers, shall before their acceptance, be approved by the board of commissioners; and the bonds of the commissioners shall be approved by the retiring board of commissioners. (common council in the first instance.) All other bonds of whatsoever kind shall not be accepted until first approved by the board of commissioners. The minutes of the meeting of the board shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be *prima facie* proof of their correctness, and they as so recorded shall be admitted as evidence in all the courts of this state. The city clerk shall be the custodian of all bonds, except those given by him, and as to them the city treasurer shall be custodian.

All bonds, obligations or other writing taken in pursuance of any provision of this act shall be made payable to "the city of Huntington," and the respective persons, and their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings

on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of Cabell, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 73. The board of commissioners shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license and assess a tax thereon on wheeled vehicles for public hire, and upon all dogs kept within said city, and to impose a tax upon all other subjects of taxation, under the several laws of the state, which taxes shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, and on capital, on which the state imposes a tax; *provided*, that no greater levy shall be laid by said board of commissioners, except the ten cents levy authorized by section seventy-nine of this act, on the taxable property of said city than is now permitted to be laid under the state law relating to municipalities, except, however, that the said board of commissioners may, by the unanimous vote of its members, by ordinance, lay an additional levy not to exceed twenty cents on the one hundred dollars of all the taxable property within said city; but said ordinance laying said additional levy shall not become effective or operative if two-fifths of all the members elected to the citizens' board shall express a veto to said ordinance in the manner prescribed in article three of this act.

Paving Streets and Constructing Sewers, Water Works, Sale of Bonds, Etc.

Sec. 78. The board of commissioners of said city of Huntington are hereby authorized to order and cause any avenue, street, road or alley, to be graded, or graded and paved, between the curbs with brick, wooden blocks, asphalt, or other suitable material, or to be macadamized, or to be otherwise permanently improved, under such supervision as they shall be directed by ordinance, upon the lowest and best terms to be obtained by advertising for bids or proposals therefor; and the cost of such grading and paving or macadamizing of any of the avenues, streets, roads, or alleys thereof, shall be assessed to the owners of the lots or fractional parts of the lots fronting and bounding on such avenue, street, road or alley, in proportion to the lineal feet so fronting or bounding owned by each; *provided*, that the cost of paving or otherwise improving the intersection of

avenues, streets and alleys shall be paid for by the city; and, *provided, further*, that if any such avenue, street, road, or alley be occupied by street car tracks or tracks of other railways, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

When the board of commissioners shall deem it expedient to cause any avenue, street, road or alley in said city, or any portion thereof, to be graded, or graded and paved, curbed or macadamized, or otherwise permanently improved, they shall by ordinance, order the work done in the following manner and upon the following terms:

The contract for such improvement shall, after thirty days' notice published in two daily newspapers of opposite politics in said city, be let to the lowest responsible bidder; but said city shall reserve the right to reject any and all bids therefor. Before advertising for bids on said work, the board of commissioners shall approve of and adopt plans and specifications therefor, and the advertisement for bids and contracts awarded thereon shall refer to such specifications.

The cost of said paving, macadamizing or other permanent improvement shall be paid in one of two ways (to be specified by ordinance by said board of commissioners), either as set out in section seventy-nine, or in section eighty-one herein.

Sec. 79. Said city of Huntington is hereby authorized to issue its bonds for the purpose of providing for the costs of grading, paving, curbing, or macadamizing or otherwise permanently improving the avenues, streets, roads, and alleys of said city, of constructing sewers for the proper drainage of said city, in anticipation of special assessments to be made upon the property abutting upon the avenues, streets, and alleys so improved, or property so sewered or drained; and for the purpose of leasing, purchasing or erecting, owning, maintaining and operating a system of water works for the city, and the inhabitants and industries thereof, and the inhabitants and industries of any territory adjacent to the territory of the city of Huntington, which the board of commissioners may from time to time agree to supply from the city water works. Said bonds may be in such amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and said city is authorized to sell said bonds, but

not below the par value thereof. The amount for which said bonds are issued shall be made up of not exceeding thirty bonds, payable in two, four, six, eight, ten, twelve, fourteen, sixteen, eighteen, twenty, twenty-two, twenty-four, twenty-six, twenty-eight, and thirty years, respectively, from the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state, and the restrictions and limitations of the state laws of this state relating to the issuances and sales of bonds, so far as such state laws are not in conflict or inconsistent with the provisions of this act; and the assessments as provided for and to be paid in sections seventy-eight and seventy-nine herein shall be applied to the liquidation of the bonds issued for those purposes, and 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, it shall be turned into the city treasury to the credit of the interest and sinking fund of said city.

Provided, that such city may, by sale or issue of such bonds, cause the aggregate of its debts of every kind whatsoever to amount to but not to exceed five per centum on taxable property therein; and, *provided, further*, that nothing herein contained shall be considered as authorizing said city on becoming indebted in any other manner, or for any other purpose, to an amount including the existing indebtedness (and in estimating "existing indebtedness" bonds issued for the purposes mentioned in this section are not to be included) in the aggregate exceeding two and one-half per centum on the value of the taxable property herein, (as provided in chapter fifty-one of the acts of one thousand nine hundred and five), except for the purpose of grading, paving, sewerage and otherwise permanently improving the streets, highways, and alleys of said city, and of leasing, purchasing or owning, erecting, maintaining and operating a water works and system, and supplying water, as provided for in this act: nor shall said city make such issue and sale of bonds without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding thirty years. And for the purposes of aiding in the payment of any bonds issued under the provisions of this act, to enable the city to lease, purchase, own, operate and maintain a water works and system. the commissioners

of the city are hereby authorized to lay a levy of not exceeding ten cents on the one hundred dollars valuation on all taxable property in the city, which said levy may be in addition to the aggregate of all other levies authorized by law; and any revenue derived from said water works over and above the expense of operating and maintaining the same, shall be applied to the payment of the bonds issued therefor.

And it shall be the duty of the board of commissioners to immediately certify the assessments herein provided for to the treasurer for collection as herein provided, and a copy of said order shall be certified by the city clerk to the clerk of the county court of Cabell county, who is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows: That is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city before the first day of the following May; and a like one-tenth part, 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. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. *Provided, however,* that the owner of any abutting land so assessed on said avenue, street, road or alley, shall have the right, at any time, to anticipate and pay any such assessment and interest thereon, and have the lien against the property so assessed released as hereinafter provided.

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

When all of said assessments for grading, paving, curbing, macadamizing or other permanent improvements, or for sewerage, shall

be paid in full to the treasurer, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan all of said permanent improvements of said avenues, streets and alleys of said city, the contractors shall look only to the city for payment for the work, and in no sense to the abutting land owners.

Sec. 85. It shall be lawful for said city of Huntington to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of the construction of said sewers and the paving or other permanent improvements of streets and alleys, as required by this act; and said city may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; *provided*, that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

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

city, or the leasing, purchasing, erecting, maintaining and operating the water works system authorized by this act, at such times as the board of commissioners shall deem fit or expedient.

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 bond election and special election herein provided for.

(House Bill No. 24.)

CHAPTER 74.

AN ACT to amend, revive and consolidate into one act, the act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled, "an act to incorporate the city of Wheeling, in Ohio county," and all subsequent acts, both of the general assembly of Virginia, and of the legislature of West Virginia, including the act of February eleventh, one thousand nine hundred and seven, which form a part of the charter of the city of Wheeling.

(Passed February 14, 1913. In effect from passage. Approved by the Governor February 19, 1913.)

SEC.

1. Boundaries and powers.
2. Estate, real and personal, conveyed to city.
3. Voting qualifications.
4. Elections.
5. Governed by mayor and four commissioners; terms; vacancy, how filled; nomination and elections; eligible.
6. Municipal primary; nomination forms; petition accompanying nominating statement; official primary ballot; proceedings of election.
7. Commissioners' duties and powers.
8. Powers.
- 8-a. Levy all taxes, etc; make all contracts.
9. Departments.
10. Mayor, authority and duty; other officers; duty.
11. Subordinate officers.
12. Restrictions on officers.
13. Salaries and meetings.
14. Meetings of commission.
15. Annual audits.
16. Removal of officers; special recall election; incumbent may succeed himself.
17. Initiative and referendum; refer-

SEC.

18. endum features; commission's initiative.
18. Stay of ordinance.
19. Only legal voters can petition.
20. Commission, custody and powers.
21. Franchise restrictions.
22. Further franchise provisions.
23. Will vacate franchise.
24. Private switch grants.
25. For public inspection.
26. General ordinance powers.
27. Weighing or measurement.
28. May by ordinance purchase toll bridges.
29. May provide ordinance for inspection of food.
30. Compel abatement or removal of nuisance; other powers.
31. May establish landings, etc.
32. Regulate building of bridges, etc.
33. Establish markets, etc.
34. To fill or drain.
35. Provide against robbery; prohibit children running at large, etc.
36. Regulation of licenses.
37. Regulate theatrical and public shows.
38. License owners of horses, hacks, etc.
39. Unlawful to tell fortunes.

SEC.	SEC.
40. Auction	69. Levy and collect taxes.
41. Hotels, taverns, etc.	70. Fiscal year.
42. Brokers.	71. Property subject to taxation.
43. License for any business.	72. May levy capitation tax.
44. Penalty for not having license.	73. Assessor shall furnish transcript of assessments; his fee.
45. Public extension powers.	74. Shall cause to be raised general tax on all taxable property.
46. May have work done.	75. Taxes due November first each year.
47. May take private property for.	76. May distress for taxes, when.
48. New city additions.	77. Taxes due a lien on the real estate.
49. Street improvements.	78. Water rates shall be distrained for, when.
49-a. Shall pave when asked.	79. Amounts due city may be recovered by suit.
50. Sidewalk improvements.	80. What orders shall not be issued for.
51. Building regulations.	81. Debts.
52. May establish system.	82. Act of legislature applicable as to issuance of bonds.
53. Power to enact laws.	83. Deposit of city funds.
54. Police court.	84. Copies shall be printed.
55. Jurisdiction of court.	85. Legal acts not to be invalidated by.
56. Recovery of fine, how.	86. Ward boundaries, etc.
57. Power to commit to await action of grand jury.	87. All fees shall divert into treasury.
58. Sessions of court, time and place.	88. Penalty for violation of provisions of this charter.
59. Power to enforce its orders, etc.	89. This act effective, when.
60. Authority of clerk.	90. Duty of mayor, council and auditor when this charter takes effect.
61. Docket, etc., to be provided.	91. Inconsistent acts repealed.
62. Power of court as judgment, etc.	
63. When an appeal shall lie.	
64. City prison.	
65. Qualification of officers.	
66. Mayor and commissioners shall give bond: amount: conditions.	
67. Commission may investigate charges against officers: may remove if.	
68. Taxation and finance.	

Be it enacted by the Legislature of West Virginia:

Boundaries and Powers.

Sec. 1. That the inhabitants of so much of the county of Ohio as is within the following boundaries, that is to say, beginning on the east side of the Ohio river at the northeast corner of the Jonathan Zane survey, in Washington district, Ohio county, corner of lands formerly belonging to the estate of Hugh Nichols, deceased, and the Wheeling Steel & Iron company; thence with the original Zane line, called south twenty-seven degrees east to the ash, corner of the Steenrod survey near Coal run; thence down Coal run to Wheeling creek, and thence up said creek with the easterly bank thereof to the mouth of Stackyard hollow; thence in a direct line southward to a double locust on top of a hill, in the line southwardly to the mouth of George's branch, in Caldwell's run; thence south to the Ohio and Marshall county line, and with the same westwardly to the Ohio and Marshall county stone, near the river bank; thence crossing the Ohio river by a due west course, to a line between the states of West Virginia and Ohio, and with said line northwardly to the north side of Hanover street, in the town of Martin's Ferry, Belmont county, Ohio; thence in a direct line and crossing the river to the place of beginning, are, and they and their

successors shall continue to be a body politic, and corporate by the name and style of the city of Wheeling, and as such, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, land and tenements, and choses in action, or any interest, right or estate therein, either for the proper use of said city or in trust for the benefit of any person or associations therein; and the same may grant, sell, convey, transfer and assign, let, pledge, mortgage, charge and encumber, in any case and in any manner in which it would be lawful for a private individual so to do, except where such power may be limited by law; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have all rights, franchises, capacities and powers appertaining to municipal corporations in this state.

Sec. 2. All real and personal estate heretofore conveyed to, or acquired by, the said city, and now owned by it, whether absolutely or in trust, shall continue to be its property as hitherto owned, subject to any modifications that may be made by law.

Voting Qualifications.

Sec. 3. Every person qualified by law to vote for members of the legislature of the state, who shall have been a resident of said city for at least one year preceding the election, shall be entitled to vote at elections for corporate authorities, and on questions authorized by law to be determined by popular vote. *Provided, always,* that no person, although in other respects duly qualified, shall be entitled to vote at any such election if he shall have failed to pay any taxes whatever, lawfully assessed or levied upon him for the benefit of said city during the year preceding the election, and that every voter when offering to vote may be required to exhibit a receipt for all taxes due the city; but a voter just coming of age, who was not subject to taxation at the time of the last assessment shall be exempt from the requirement of producing his tax receipt. And, *provided, further,* that no person legally entitled to vote shall be permitted to vote at any other place than the precinct in which his residence is situated.

Elections.

Sec. 4. The first election under the new charter shall be held on the fourth Thursday in May, one thousand nine hundred and thir-

teen, and every city election shall be held biennially on the fourth Thursday in May. Said first election shall be conducted in the manner now required by the ordinances of said city in regard to elections, except that the officers to be elected shall be as prescribed by this act. Thereafter such election shall be held in such manner as shall be prescribed by law. All other elections or votes on any question by the qualified voters of said city, shall be held or taken at such places under the superintendency of such persons and subject to such regulations (not inconsistent with the charter of the city and the laws of the state) as the commission shall from time to time hereafter ordain.

Sec. 5. Said city shall be governed by a mayor and four commissioners. The terms of office of the mayor and commissioners shall be for four years each, except that at the first municipal election under this act two of the commissioners shall be elected to serve but two years, and these two commissioners shall be the two of those elected polling the less number of votes, while the two commissioners receiving the largest number shall serve for four years and their terms expire concurrently with that of the mayor. Thereafter, there shall be held biennial municipal elections at which two commissioners shall be elected to serve four-year terms, and a mayor at such alternating elections as will conform to this section. If any vacancy occur in any such office of mayor or commissioners, the remaining members of said commission shall appoint a person to fill such vacancy during the balance of the unexpired term until the next succeeding election.

Said officers shall be nominated and elected at large. Said officers shall qualify and their terms of office shall be for four years, except as provided for with respect to two of the commissioners elected at the first election under this act; and said officers shall serve until their successors are elected and qualified and shall begin their duties on the first day of July after their election. The terms of office of the mayor and councilmen and members of the board of commissioners and chief of police, treasurer and auditor, in such city in office at the beginning of the terms of office of the mayor and commissioners first elected under the provisions of this act shall then cease and determine, and the terms of office of all other elective or appointive officers in such city, except as hereinafter provided, shall cease and determine as soon as the commission shall by resolution declare.

All primary, special and regular municipal elections under this act shall be governed by the general election laws of the state, so far as they may be applicable thereto.

No person shall be eligible to the office of mayor or commissioner

at any election unless he be a citizen of the United States, and the state of West Virginia, and a resident of the city of Wheeling for at least three years next preceding.

Municipal Primary.

Sec. 6. Candidates to be voted for at all general municipal elections at which a mayor or commissioners are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be printed upon the ballot except those selected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Thursday of May preceding the general municipal election. The judges and clerks of any primary or general municipal election shall be selected by the commission from a list of persons, one each of whom may be proposed for each election precinct by each candidate. In case there are five candidates or more who present lists at any election, not more than one judge or clerk of election shall be chosen for each precinct from the names proposed by any one candidate. All such lists shall be proposed in writing at least fifteen days before election. In case an insufficient number of names are so proposed, the commission may select such number as may be necessary in order to provide three judges and two clerks for each election precinct. The council, as constituted at the passage of this act, shall appoint the judges and clerks for the first primary and general elections to be held hereunder, as provided for in this section.

Nomination Forms.

Any person desiring to become a candidate for mayor or commissioner shall, at least ten days prior to said primary election, file with the city auditor a statement of such candidacy, in the following form: State of West Virginia, Ohio county, ss.:

I,, being first duly sworn, say that I reside at..... street, city of Wheeling, county of Ohio, state of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or commissioner) to be voted upon at the primary election to be held on the second Thursday of May, 19....., and I hereby request that my name be printed upon the official ballot for nomination by such primary election for such office.

Signed

Subscribed and sworn to (or affirmed) before me by
on this day of 19....

Signed

My commission expires Notary Public.

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

Petition Accompanying Nominating Statement.

The undersigned, duly qualified electors of the city of Wheeling and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the second Thursday of May 19..... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

Names of qualified electors	Number	Street.
-----------------------------	--------	---------

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city auditor shall cause to be published for three successive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary ballots; and the said auditor shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square to the left of each name and immediately below the words "vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for commissioners with a square at the left of each name, and above the names of such candidates shall appear the words "vote for four." At all succeeding biennial elections following the first under this act shall appear the words "vote for two." The ballots shall be printed upon plain, substantial white paper, and shall be headed:

"Candidates for nomination for mayor and commissioners of the city of Wheeling, at the primary election," but shall have no party designation or mark whatever. The ballots shall be in substantially the

following form: (Place a cross in the square preceding the names of the parties you favor as candidates for the respective offices.)

OFFICIAL PRIMARY BALLOT.

Candidates for nomination for mayor and commissioners of the city of Wheeling at the primary election.

For Mayor.

(Vote for one.)

[] (Name of candidate)

For Commissioner.

(Vote for four.)

[] (Name of candidate)

Official ballot, attest:

Signature City Auditor.

Proceedings of Election.

Having caused said ballot to be printed the said city auditor shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at the general election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return on proper blanks, properly sealed thereof, to the city auditor within six hours of the closing of the polls, and post duplicate return blanks on the outside of the voting place. On the day following the said primary election the said city auditor shall canvass said returns so received from the polling precincts, and shall make and publish in all the newspapers of said city at least once, the result thereof. Said canvass by the city auditor shall be publicly made. The two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the next succeeding general municipal election and the eight candidates receiving the highest number of votes for commissioners, or all such candidates if less than eight, shall

be the candidates and the only candidates whose names shall be placed upon the ballot for commissioners at such general municipal election. In the event of the death or resignation of a nominee before the election, the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

When two or more persons shall have an equal number of votes for the same office, the two candidates having the highest number of votes shall draw lots for said office according to the usual manner of drawing lots.

The ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable, and in all elections in such city the election precincts, voting places and announcing of results, shall be the same as by law provided for election of officers in said city, so far as the same are applicable to and not inconsistent with the provisions of this act.

Commission's Duties and Powers.

Sec. 7. Said city shall be governed by a commission, consisting of the mayor and four commissioners chosen as provided for in this act, each of whom shall have the right to vote on all questions coming before the commission. Three members of the commission shall constitute a quorum, and the affirmative vote of three members shall be necessary to adopt any motion, resolution or ordinance or pass any measure. Upon every vote the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the commission; he shall have no power to veto any measure, but every resolution or ordinance passed by the commission must be signed by the mayor, or by three commissioners, and be recorded before the same shall be in force.

Sec. 8. The commission shall have and possess, and the commission and its members shall exercise all executive, legislative and judicial powers conferred upon cities, towns and villages by the general law of the state and by this act.

The executive and administrative power, authority and duties in said city shall be distributed into and among five departments, as follows:

1. Department of public affairs.
2. Department of finance.
3. Department of safety.

4. Department of improvements.

5. Department of utilities.

The commission shall determine the powers and duties to be performed by and assign them to the appropriate department, shall prescribe the powers and duties of officers and employes; may assign particular officers and employes to one or more of the departments; may require an officer or employe to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

Sec. 8-a. The commission shall levy all taxes, apportion and appropriate all funds, and audit and allow all bills, accounts, pay rolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed. It shall make or authorize the making of all contracts, and no contract shall bind the city unless either made by ordinance or resolution adopted by the commission, or expressly authorized, as provided in section seven. All superintendents of departments and officers are the agents of the commission only, and all their acts shall be subject to review and to approval or revocation by the commission.

Departments.

Sec. 9. The mayor shall be in charge of the department of public affairs, and the commission shall, at the first regular meeting after election of its members, designate by majority vote, one of its members to be in charge of the department of finance, one to be in charge of the department of safety, one to be in charge of the department of improvements, and one to be in charge of the department of utilities, and for the purpose of official classification they shall be known respectively as "commissioner of finance," "commissioner of safety," "commissioner of improvements," and "commissioner of utilities."

Sec. 10. The mayor shall be the chief executive head of the city. He shall have general oversight of all departments and shall refer to each commissioner for his action all matters requiring attention in his department. As commissioner of public affairs, unless otherwise provided by ordinance, the mayor shall have charge of all public buildings and property, all legal matters in which the city or its officers shall be interested, and any matters not assigned specifically to any other department. In the absence or inability of any of the other commissioners to act, the mayor shall have the powers and

discharge the duties of such commissioner. He shall have charge of all civic functions, receptions and courtesies, and be *ex officio* a member of all committees or boards named by the commission.

The commissioner of finance shall supervise the collection and disbursement of all funds of the city, shall prepare and submit the annual budget to the commission, have direct supervision of all bonds and public debts, and all city finances generally.

The commissioner of safety shall supervise and control the police, fire and health departments of said city.

The commissioner of improvements shall supervise the construction, repair and maintenance of all streets, alleys, sewers, bridges and like public works of the city.

The commissioner of utilities shall supervise the operation, improvement and extension of the water works, gas works, electric light plant and any public utilities the city may operate.

The commission may by ordinance reassign any of the duties and powers above specified and may in such manner transfer any powers and duties from one department to another. Any duties not herein enumerated may be delegated by the commission to the commissioner of any of the said departments.

The commission shall appoint a park and playgrounds board, to consist of three residents of the city of Wheeling, one of whom shall be a woman, for the purpose of supervising and managing any parks or public playgrounds. Said board members shall be appointed for terms of four years each. Further definition of their duties and responsibilities may be made by ordinance.

Subordinate Officers.

Sec. 11. The commission shall by majority vote after each general municipal election appoint such officers and employes as it may deem necessary for proper conduct of the city's affairs, upon nomination of each commissioner for such officers and employes as may be under his direction in his department, except as otherwise provided in this act. The commission may remove any of said appointees at any time.

The commission shall have the power from time to time to create, fill and discontinue offices and employments, according to their judgment of the needs of the city, and may by resolution or otherwise, prescribe, limit or change the compensation of such officers or employes.

All employes shall be appointed with reference to their qualifications and fitness and for the good of the public service and without reference to their political faith or party affiliations.

The commission shall be a civil service board, whose duty it shall be to examine all applicants for positions in the departments of fire and water works, and such other departments as may be ordained. For this purpose the commission may prescribe tests and adopt classifications and rules. Following such classification no employe shall be discharged without a hearing, and he may be reinstated on the showing of cause satisfactory to the commission.

The chief of police shall immediately upon his appointment select his subordinate officers, all said appointments to be submitted to the commission for confirmation. The chief shall be responsible to the department of safety for any and all misconduct of his subordinate officers. The term of office of the chief of police and subordinates shall be for two years, subject to removal for cause after a hearing by said commission. The chief and his subordinates shall be eligible for reappointment, and the commission shall have power to adopt classifications and rules for the control of the police force.

Restrictions on Officers.

Sec. 12. No officer or employe elected or appointed in said city shall be interested, directly or indirectly, in any contract or job for work or materials, or the profits thereof, or services to be furnished or performed for the city; and no such officer or employe shall be interested, directly or indirectly, in any contract or job for work or materials or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating an interurban railway, street railway, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility, within the territorial limits of said city. No such officer or employe shall accept or receive, directly or indirectly, from any person, firm or corporation operating within the territorial limits of said city, any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line or telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket, or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any other service upon terms more favorable than is granted to the public generally. Any violations of the provisions of this section shall be a misdemeanor, and every such contract or agreement shall be void.

Such prohibition of free transportation shall not apply to policemen or firemen in uniform; nor shall any free service heretofore provided by any franchise or ordinance be affected by this section.

Any officer or employe of such city, who, by solicitation or otherwise, shall exert his influence, directly or indirectly, to influence other officers or employes of such city to adopt his political views or to favor any particular person or candidate for office, or any officer or employe of said city, who shall in any manner contribute money, labor or other thing of value in the interest of any candidate for office, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not exceeding one year.

Salaries and Meetings.

Sec. 13. The mayor and commission shall have an office or offices at the city hall, and their total compensation shall be as follows: The annual salary of the mayor shall be three thousand five hundred dollars, and of each commissioner three thousand dollars. Such salaries shall be payable in equal monthly installments. The salary or compensation of all other employes of said city shall be fixed by the commission, and shall be payable semi-monthly. No member of the commission shall be actively engaged in any other occupation during his term of office as such.

Sec. 14. Regular meetings of the commission shall be held at least once a week after the election of the commissioners. The commission shall provide by ordinance for the time of holding regular meetings, and special meetings may be called from time to time by the mayor or two commissioners. All meetings shall be open to the public. The mayor shall be president of the commission. The commissioner of finance shall be vice-president of the commission, and in the absence or inability of the mayor shall perform the duties of the mayor.

Annual Audits.

Sec. 15. At the end of each year the commission shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in connection with the annual city financial statement required by state law.

Removal of Officers.

Sec. 16. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows:

A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with the city auditor, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose signature it purports to be. Within ten days from the date of filing such petition, the city auditor shall examine and ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary, the commission shall allow him extra help for that purpose, and he shall attach to said petition his certificate, showing the result of said examination. If, by the auditor's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The auditor shall within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed sufficient, the auditor shall submit the same to the commission without delay. If the petition shall be found sufficient, the commission shall order and fix a date for holding said election, not less than thirty days nor more than forty days from the date of the auditor's certificate to the commission that a sufficient petition is filed.

Special Recall Election.

The commission shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same

shall be conducted, returned and the result thereof declared in all respects as are other city elections. So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the auditor at least ten (10) days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election, equal in number to at least ten per centum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in section six of this act, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition and stating therein that such person is a candidate for election instead of nomination.

The ballot for such special election shall be in substantially the following form:

OFFICIAL BALLOT.

Special election for the balance of the unexpired term of
 as

(Vote for one only)

[].....

[].....

Name of present incumbent.

Official ballot, attest:

Signature City Auditor.

Incumbent May Succeed Himself.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the auditor shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent thereupon shall be deemed removed from the office upon qualification of his successor. In case the person who received the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives

the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and additional to the methods heretofore provided by law. Whenever a petition is presented for a recall election against the commissioner of finance, the sufficiency of said petition shall be determined and authenticated by the mayor instead of the auditor.

Initiative and Referendum.

Sec. 17. Any proposed ordinance may be submitted to the commission by petition signed by electors of the city, equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petitions under section sixteen hereof.

If the petition accompanying the proposed ordinance be signed by electors, equal in number to fifteen per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people if not passed by the commission, such commission shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the auditor's certificate of sufficiency to the accompanying petition, or

(b) Forthwith after the auditor shall attach to the petition accompanying such ordinance his certificate of sufficiency, the commission shall call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by less than fifteen per centum and not less than ten per centum of the electors, as above defined, then the commission shall within twenty days, pass said ordinance without change, or submit the same at the next general election occurring not less than thirty days after the auditor's certificate of sufficiency is attached to said petition.

Referendum Features.

The ballot used when voting upon said ordinance, shall contain these words: "for the ordinance" and "against the ordinance," stating the nature of the proposed ordinance. If a majority vote in

favor thereof such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

Commission's Initiative.

The commission may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city auditor shall cause such ordinance or proposition to be published once in two daily newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Stay of Ordinance.

Sec. 18. No ordinance or franchise passed by the commission, except when otherwise required by the general laws of the state, or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before thirty days from the time of its final passage and not then unless within two days after passage, Sundays and holidays excepted, the same shall have been published in two newspapers published and generally circulated in said city. And if during said thirty days a petition signed by electors of the city, equal in number to at least fifteen per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance or franchise be presented to the commission, the said ordinance or franchise shall thereupon be suspended from going into operation, and it shall be the duty of the commission to reconsider such ordinance or franchise, and if the same is not entirely repealed, the commission shall

submit the ordinance or franchise as is provided by sub-section (b) of section seventeen of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose, and such ordinance or franchise shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section seventeen, except as to the percentage of signers, and be examined and certified to by the auditor in all respects as therein provided.

Only Legal Voters Can Petition.

Sec. 19. Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of the signing, legal voters of said city, and the number of signers at the time the affidavit was made.

Sec. 20. The commission shall have the custody and control of the streets, alleys and public grounds of the city, with all the powers with reference thereto, which are now held by the city, and all such powers as are now held by councils of cities, towns and villages organized under the general laws of the state; subject, however, to the provisions of section seventeen of this act.

Franchise Restrictions.

Sec. 21. Franchises, rights or privileges may be granted by the commission, allowing to persons or corporations, for a limited time, such occupancy of portions of the streets as may be necessary for works of public utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telephone and telegraph poles, electric light and other electric poles, wires and conduits, and subways, and gas and heating pipe lines. But no such franchise, right or privilege shall hereafter be granted by the commission, except under the following restrictions and conditions:

First.—No ordinance granting any franchise, right or privilege for the use of the streets, alleys or public grounds of the city, for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first proposed in the commission and notice of the object, nature and full extent of

such franchise shall have been published at least thirty days by the applicant, in some daily paper published in the city of Wheeling, before being acted upon. The vote thereon shall be taken by ayes and noes and the same entered upon the journal of the commission.

Second.—Every grant of any franchise shall be for a limited period of time. If no time be expressly provided in the grant, the franchise shall be granted for one year only. In no case shall the franchise extend for a period exceeding thirty years. Nor shall any grant or franchise be made without the reservation on the part of the city to alter, amend or repeal the same at any time during its term, upon satisfactory evidence that the grantee has failed to do those things which the said grant or franchise stipulates that he shall do, or that does such things as by the said grant or franchise he is prohibited from doing.

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

Fourth.—No grant of any franchise, right or privilege shall be made without, at the time of making it, providing that the city shall receive in consideration therefor, a compensation, to be paid annually during the whole period. *Provided, however,* that the principle of competition shall be employed by the commission where the same is offered, so that the franchise, right or privilege, with prescribed terms and conditions as to its extent, and as to the rates to be charged the public by it for its services, will be given to the person or corporation bidding or agreeing to pay therefor to the city the highest compensation, or so that the franchise, right or privilege with prescribed conditions as to its extent and the compensation that must be paid therefor, will be given to the person or corporation that will agree to render service to the public at the lowest rates. But where revenue or tolls to be charged the public and revenue to the city are joint points of deliberation, the commission may take both points into consideration with probable good or ill service of competing applicants, and grant any such franchise to such applicant as it shall determine will result in the greatest benefit to the largest number of citizens of the city.

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

Sixth.—In case a petition for stay of ordinance is presented, in accordance with section eighteen, and a special election is called for the purpose of accepting or rejecting the application for a franchise, the applicant for such franchise shall deposit with the commission, to the credit of the city, the amount of expenses of said election.

Seventh.—No franchise, right or privilege, as is referred to in this section can be granted unless on the affirmative vote of four members of the commission.

Eighth.—The provisions of this section, however, shall not apply to grants made under section twenty-four of this act.

Further Franchise Provisions.

Sec. 22. No renewal of any franchise, right or privilege for any such work of public utility or service as is mentioned in the next preceding section, shall in any manner be granted until within three years of the time of its expiration.

Sec. 23. The non-user of a franchise, right or privilege in or upon any street or alley, or portion thereof, for a period continuously of one year, shall vacate and annul the same as to the portion so allowed to go into disuse.

Private Switch Grants.

Sec. 24. Permission may be given to a person or private corporation to place a switch or tramway on a part of a public street or alley, at grade, for his own or its own use, but the grant shall be so limited as not to exceed ten years, and a charge in the nature of an annual rental or license charge for the same, payable to the city, may be fixed by the commission.

All grants under this section shall be subject to the following restrictions and conditions:

If no time is expressly provided in the grant, it shall be for one year only.

It shall provide that the grantee shall indemnify and save harmless the city against all suits, loss or damage, by reason of the construction or maintenance of such switch or tramway, and that said grant may be altered, amended or repealed upon satisfactory evidence that the grantee has failed to comply with its provisions. All reasonable provisions must be made to protect the public from unnecessary damage or inconvenience by reason of such switch or tramway and the operation or maintenance thereof.

For Public Inspection.

Sec. 25. Every ordinance or resolution appropriating money or ordering any street improvement or sewer or making or authorizing the making of any contract, or granting any franchise, or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and remain on file with the city auditor for public inspection at least one week before the final passage or adoption thereof. No franchise, or right to occupy or to use the streets, highways, bridges, or public places in said city shall be granted, renewed, altered, amended, repealed or extended except by ordinance.

General Ordinance Powers.

Sec. 26. The commission shall have authority by ordinance to establish, own and operate water works, gas works, and works for generating and furnishing heat and electricity for the use of said city, and to sell water, heat, electricity and gas from such works to persons or corporations outside as well as within the limits of the city, or to buy heat, electricity, water or gas at wholesale and sell same at retail, and the commission is further authorized to construct and operate water works for the use of said city at some point to be selected by the commission, outside of the city limits, and to place and maintain all needed mains, pipes and other fixtures and appliances at such works and between such works and the city, and for these purposes to acquire and hold, by purchase or condemnation all needed lands and rights-of-way, and to own and operate street railways and other works of public utility, to establish and maintain a fire department, police department, health department, crematory and city prison, and for these purposes acquire and hold all necessary

real estate by purchase or condemnation, and also to establish and maintain hospitals and cemeteries either within or outside the limits of the city, and for these purposes acquire and hold all necessary real estate by purchase or condemnation, outside as well as within the city limits.

Sec. 27. The commission may by ordinance provide for the proper weighing or measurement of all hay, straw, grain, stone, coal, coke, lumber, lime, cement, sand, oil, spirituous and malt liquors and wine which may be offered for sale in said city.

Sec. 28. The commission may by ordinance purchase both toll bridges or build a bridge over the east channel of the Ohio river, connecting the island with the other portions of the city; but no debt shall be created in the making of such purchase, except upon full compliance with the provisions of sections eighty-one and eighty-two of this act. Upon acquiring such bridges, the commission may by ordinance make all needful and reasonable regulations in regard to the care thereof, and in regard to any tolls that may be earned thereon by contract, or may be charged thereon by contract, or may be charged thereon to provide for the maintenance thereof. The commission shall have the right to enter into contracts with bridge companies charging toll for passage from one portion of the city to another, for free passage over such bridges; but such contract shall be entered into only when petitioned for, as provided for in section seventeen of this act, and after ratification by the voters of said city.

Sec. 29. The commission may by ordinance provide for the inspection of bread, milk, meat and all other articles intended for food, including animals from which such food is obtained, and all substances entering into the manufacture of food, intended for use in said city; and to regulate or prevent the sale, or cause the destruction of any such food or milk as may be unwholesome, adulterated, or dangerous, and to provide for the punishment of persons negligently or knowingly selling or offering the same for sale. Under this section the word "food" means anything intended to be eaten or drunk by the citizens of the said city.

Sec. 30. The commission may by ordinance require and compel the abatement and removal of all nuisances within said city at the expense of the person, or persons causing the same, or of the owner or owners of the ground whereon the same shall be; to restrict the driving of hogs, cattle or other stock within said city, either as to the streets over which they may be driven or as to time within which

they may be driven, or both, to prevent any such stock or dogs and other animals from running at large in said city; or to subject the same to such regulations and taxes as they may deem proper. They shall also have authority to prohibit or license, regulate and tax, slaughter houses and stock yards, or the exercise of any offensive or unhealthy business, trade or employment within said city; also to prevent the firing of guns, crackers, or any combination of gun-powder, or other explosives and dangerous materials in said city; also to prevent the driving or riding of horses or other animals, or the riding of bicycles or other vehicles, or the running of locomotives or automobiles propelled by steam, electricity or other power, cars of all kinds at an improper speed, within the limits of said city; also by ordinance to control and regulate parades and processions in the streets, alleys, and public places of the city; and, generally, to prevent such conduct in the city as is prejudicial to the comfort, health, convenience, safety, peace and good order of said city or the inhabitants thereof, and to make and ordain appropriate provisions and penalties for the enforcement of all such regulations.

Sec. 31. The commission may by ordinance establish and construct landings, wharves and docks on any ground which may belong to the said city, and to repair or alter, but not diminish, any landing, wharf or dock which has been or shall be so constructed; and to establish and collect rates and taxes for using in any manner the landings, wharves and docks belonging to said city. And they shall further have authority to pass and enforce such ordinances as shall be proper to keep the same in repair, to preserve peace and good order at the same and to regulate the manner in which they shall be used.

Sec. 32. The commission may by ordinance regulate the building of bridges over Wheeling creek within the city, and the use of the bed and banks thereof by abutting owners or other persons, so that the channel shall not be obstructed, and neither the stream nor banks shall be rendered offensive, unsightly or unhealthful.

Sec. 33. The commission may by ordinance establish markets in and for said city; appoint the time and places for holding the same, provide suitable buildings therefor and ordain and enforce such regulations respecting the markets as in their opinion the convenience or interest of the inhabitants of said city shall require. They shall further have authority to ordain and enforce such regulations as shall be necessary or proper to prevent forestalling in the markets.

Sec. 34. If any ground in the said city shall be subject to be covered by stagnant water, or if the owner or owners, occupier or occupiers thereof, shall permit any weeds or rank growths or offensive or unwholesome substances to remain or accumulate thereon, the commission may by ordinance cause such ground to be filled up or drained, or to cause such growths or substance to be cut or covered up, or to be removed therefrom, and to collect the expense of so doing from the said owner or owners, occupier or occupiers, or any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said city are authorized to be collected. *Provided, however,* that at least five days' notice of what is required shall be first given to the said owners or their agents.

In case of non-resident owners, who have no agent in said city, such notice may be given by publication, for not less than ten days in some newspaper printed in said city, at the expense of said owner.

Sec. 35. The commission may pass such ordinances as shall be necessary or proper to secure the inhabitants of said city against thieves, robbers, burglars, persons carrying concealed weapons, and all other persons violating the public peace of said city; for the suppression of riots and gaming, and for the prevention and punishment of lewd, lascivious, indecent or disorderly conduct in said city. They shall also have the authority to provide in like manner for preventing children from running or being at large in the streets, commons, parks, fair grounds, or other such places within the city at night. They shall also have authority to provide for the prevention of cruelty to animals, and of cruelty, by neglect, or otherwise, to aged, feeble, or imbecile persons, or children within the city. They shall have the authority to provide for the welfare, health and safety of persons in theatres or other places of amusement, including assembly and lodge rooms, in requiring proper sanitary and hygienic arrangements together with adequate exits and fire escapes.

Regulations and Licenses.

Sec. 36. The commission may by ordinance require that suitable magazines or places, shall be provided in or near said city for the storage of gun powder, dynamite, petroleum and the volatile products thereof, and all explosives, combustible and dangerous articles, and to make and enforce such regulations as they may deem necessary respecting the place and manner of transporting the same. They shall also have authority to assess by ordinance, and collect, an annual license tax for the keeping and selling of all such articles.

Sec. 37. The commission may by ordinance regulate theatrical exhibitions, public shows, musical performances and hypnotic exhibitions, and all performances to which admission is obtained by the payment of money or other reward, and to grant or refuse license for any and all of such performances, and to levy and collect taxes on the same.

Sec. 38. The commission may by ordinance grant license to owners and keepers of horses, hacks, carts, wagons, drays, automobiles, bicycles and every description of wheeled vehicles kept within the said city; to levy and to collect taxes thereon, and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the commission, may require. The commission shall also have authority to license and tax hawkers and peddlers within said city, and persons who rent temporary quarters or who temporarily station themselves upon a street to sell or exhibit articles, and all butchers who do not rent a stall or stand in either of the market houses of the city, hawking, peddling and selling meat on the streets of the city are required to take out and pay the license required of hawkers and peddlers.

Sec. 39. It shall be unlawful for any person to hold himself or herself out as a fortune teller, clairvoyant, mind reader or palmist, and purport and claim to tell the future or the past by the above or any other hidden and secret methods or science, or to practice the above callings, avocations or professions, and the commission has authority to pass an ordinance making and declaring the same unlawful and prescribing the penalty therefor.

Sec. 40. The commission may by ordinance regulate sales at auction within said city, and levy and collect taxes upon such sales; to grant or refuse licenses to auctioneers, and loan agencies, and to levy and collect taxes upon such licenses, in addition to any tax which may be payable to the state: *provided, however,* that nothing herein contained shall be construed to authorize any interference by the corporate authorities of the city with, or the imposition of any tax upon, any sale made under the judgment or decree of any court of justice of this state, or made by a trustee under a deed of trust given *bona fide*, in this state to secure debts.

Sec. 41. The commission shall have exclusive authority within said city, by ordinance, to grant or refuse license to the keepers of hotels, inns and taverns, houses of public or private entertainment, not used for immoral purposes, boarding houses, public eating houses,

coffee houses, saloons, places at which spirituous liquors, wines, porter, ale or beer, intoxicating cider, or any drink of a like nature shall be sold, places of public amusement, and boarding stables or stables for keeping and feeding horses and mules for compensation. *Provided, however,* that persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license than the license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses and mules for compensation. The commission shall further have authority, by ordinance, to regulate the manner in which such houses or places shall be kept, and to levy and collect a license tax from every person licensed under the authority of this section, in addition to all other taxes imposed upon him or his property. And no person without a license therefor shall sell, or offer or expose for sale, spirituous liquors, wine, porter, ale or beer, intoxicating cider or any drink of a like nature within said city.

Sec. 42. The commission may by ordinance require city license from persons conducting the business of pawn broker or loan agent by lending money or other thing of value for profit, for or on account of personal property deposited with the lender in pledge, or left in the possession of the borrower and secured to the lender by lien, pledge or mortgage.

The commission may by ordinance restrict or regulate fees to be charged to patrons by money brokers, pawn brokers, loan agents, private bankers and others engaged in like business; for applications, examinations, appraisements, renewals, transfers, or any other paper writing to be signed by such patrons, and in any proper way to safeguard the public against unscrupulous, unfair or exorbitant charges.

Sec. 43. The commission may by ordinance require city license for persons conducting and carrying on any business or vocation for which the state may now or hereafter require license.

Sec. 44. The commission may by ordinance subject any person or persons, who without having obtained a city license therefor shall do any act, or follow any employment or business in said city, for which the commission is or shall be authorized to grant licenses, to any fine or punishment which they are authorized to impose or inflict for the enforcement of their ordinances.

Public Extension Powers.

Sec. 45. The commission may by ordinance within said city lay out and cause to be opened any streets, walks, alleys, market grounds,

and public squares or to extend or widen the same, first having obtained title to the ground necessary for the purpose, and to grade any street, walk, alley, market ground or public square which is or shall be established within said city; to pave or otherwise improve the same; to cause them to be kept open and in good repair, and generally to ordain and enforce such regulations respecting the same, or any of them, as shall be proper for the health, interest or convenience of the inhabitants of said city.

Sec. 46. The commission may by ordinance have all work done without the intervention of contractors or middlemen.

Sec. 47. The commission may by ordinance cause to be taken or damaged for the use of the city for streets, alleys, markets, public squares, parks, playgrounds and other purposes, including occupation by sewer, water pipes, gas pipes, heating pipes, compressed air pipes and electrical or other subways, any private property within the city, (and where such use is to secure or improve the water supply, or for park, playground, sanitary or cemetery purposes, outside the limits of the city), but no such property shall be taken or damaged without just compensation. The compensation, if it cannot be determined by agreement with the owner of the property so damaged, shall be ascertained in such manner as is or may be prescribed by general law for the condemnation of land for public purposes.

New City Additions.

Sec. 48. It shall be the duty of any person or persons making any plat of any addition or subdivision to the city to submit the same, with proposed streets and alleys convenient thereto, and the grades, sewers and drainage, and the municipal improvements which may be required thereto, to the commission, for its approval before filing the same for record. Before the commission shall approve the same, the owner or owners of such addition shall dedicate the streets and alleys thereon to the public use; and the clerk of the county court shall not record such plat until the commission shall have indorsed its approval thereon. If any such addition be laid out and a plat thereof recorded, or property be sold therefrom without such addition having had the approval of the commission, (being before the passage of this act), it shall be the duty of the commission before making any improvements on or in the streets in such addition to require from the owner or owners of such addition, or from pur-

chasers of property therein, the payment of such sum or sums as will in the opinion of the commission, compensate the city for the increased cost or decreased value, or both, of its improvements so to be made occasioned by the imperfect or improper plan of such addition.

Street Improvements.

Sec. 49. The commission of the city may cause any street or alley to be paved, between the sidewalks, with cobble, asphalt, stone, brick, or other suitable materials, under such regulations as shall be fixed by ordinance, upon the lowest and best terms to be obtained by advertisements for bids or proposals therefor by the commission as herein provided; or the commission may have such work done without the intervention of contractors or middlemen; and two-thirds of the cost of such paving shall be assessed to the owner of the lots or fractional parts of lots abutting or bounding on that part of the street or alley so paved in proportion to the distance of the frontage owned by each, except in the case of a street whereon a railway is being operated, the railway company shall pay for the new paving between the rails and a foot outside of the rails, and the remainder of the cost to be borne in the proportion of one-third to the city and the remaining two-thirds to the owners of the abutting property on both sides of said street or alley on which said railway is being operated, the intersection to be paved at the expense of the city and such railway as operates on such intersections. The one-fourth thereof shall be paid within thirty days after the completion and acceptance of the work, and the remainder in three equal installments, payable respectively at such times as the commission may by ordinance fix at the time of letting the contracts for such work.

The sum or sums of money thus assessed for paving shall be a lien on the lots or fractional parts of lots upon which they are assessed, which lien may be enforced by a suit in equity in the name of the city in any court having jurisdiction thereof, and the same, or any installment thereof, may be collected by a suit at law before any court or any justice of the peace having jurisdiction thereof.

Immediately upon the completion and acceptance of any paving constructed by virtue of this section, the commission shall direct the auditor to cause to be published a notice which shall name and describe the location of the street or alley upon which said paving shall have been constructed; give the name or names of the owners

of each lot abutting or bounding upon such street or alley, if known, and if the name or names of the owner of any lot or fractional part of a lot are unknown, such lot shall be described with reasonable certainty in order that the same may be identified. The number of feet that each lot or fractional part of a lot abuts shall be stated, also the amount assessed against each lot or fractional part of a lot. Said notice shall cite all owners of lots or fractional parts of lots, abutting upon the street or alley aforesaid to appear before the commission of said city at a regular meeting thereof, within thirty days from the first publication thereof, and show cause, if they can, why the assessment aforesaid should not become final, which notice shall be published once a week for two successive weeks in one or more newspapers of general circulation published in said city. The commission shall upon the request of any one or more of the owners of said lots or fractional parts of lots, appoint a day to hear the grievances of said owner or owners, and may alter or amend any assessment made against any one or more of said owner or owners for good cause to be shown. The auditor shall give notice to all persons claiming to be injured by said assessment, of the time and place of holding said meeting, which meeting shall be held within ten days after the expiration of thirty days mentioned in said notice. The commission may adjourn the hearing from time to time. In case any owner or owners of abutting property fail to complain of any grievance or injury they may have suffered by reason of the assessment aforesaid, and shall fail to appear for the purpose of having the same corrected, the assessment as laid shall be final. The findings of said commission shall be conclusive. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

But the lien upon any real estate created by virtue of this section shall be void as to any purchasers of any such real estate, for value and without notice, who shall have purchased such real estate at any time after the period of twelve months has elapsed after the paying has been accepted by the city, unless, before such purchase, an abstract of such assessment, giving location of the real estate affected, the name of the owner and the date and amount of the assessment shall have been recorded in the office of the clerk of the county court of Ohio county, in a well bound book to be furnished by the city and preserved in said office.

And it is hereby made the duty of said county clerk to record said abstracts; for the recordation of each of which said clerk shall receive a fee of twenty-five cents to be paid by the city.

Sec. 49a. If two-thirds, or more, of the property owners on any street or alley, or any section thereof which shall lie between intersecting streets or alleys, shall desire same to be paved or repaved between the curbs, and shall present a petition to the commission setting forth their desire and describing the street, or alley, or the section thereof desired to be paved or repaved, the commission shall, within a reasonable time, cause the said work to be done. after the method set forth in section forty-nine of this act.

Sidewalk Improvements.

Sec. 50. The commission may by ordinance establish the width of any sidewalk along any street, alley or public square or part thereof, and cause to be set or reset, the curbing thereon, and to require that when any such street, alley or public square, or part thereof, shall be prepared by the city for the laying of sidewalks, by the setting of curb-stones, and by grading the sidewalk space, either by filling or cutting, as the case may require, the owners of any ground fronting on such sidewalks adjacent to their property shall be required to pave the same; and in case of the failure or refusal of such owners to so pave the same, to cause the same to be properly paved by the city, and to levy and collect from such owner or owners the cost of the paving adjacent to his or their property, or where the cost cannot be conveniently ascertained, to levy and collect a special tax to defray the expense of such paving upon the owners of such adjacent ground, who fail to pave as required by an assessment upon each, proportionate to the number of front feet which he shall own. The commission shall have power, by ordinance, in like manner, to require the owners of property adjacent to any paved sidewalk whether heretofore or hereafter constructed, to keep such sidewalk in repair, and in default of their doing so, to cause the same to be repaired, and assess the cost thereof upon such owners. It shall be lawful for the officer authorized to collect any such tax or assessment to collect the same from the owner or owners of such grounds, or from any tenant or debtor of such owners, as provided in sections seventy-six and seventy-seven of this act, and such assessment shall be a lien upon such adjacent property. All disturbances of any streets (including sidewalks) or alleys of said city, caused by digging therein for the bene-

fit of private persons, except where the digging is done by the city to furnish water, gas or other commodity to such private person for a consideration, shall be repaired by the city at the expense of the person for whose benefit, or for the benefit of whose property the digging is done; and the commission shall by ordinance require the enforcement of this duty, including the duty of making repeated repairs as often as the defect so caused shall reappear.

The commission may by ordinance establish a date from which new or renewed sidewalks along any of the streets or alleys of the city must be made uniform as to width, material and construction, and may fix a standard of width, material and construction.

Building Regulations.

Sec. 51. The commission may by ordinance prohibit the erection, within any square or squares of the city, of any building, or any addition to any building, more than ten feet high, having in the foundation or outer walls thereof, or roof covering thereof, any wood or other combustible material; and to provide for the removal of any building or addition which shall be erected contrary to such prohibition, at the expense of the builder or builders, or owners thereof.

Sec. 52. The commission may establish by ordinance a system of regulations by which all plans for the construction of buildings or additions thereto within the city shall be required to be submitted to the commission or some other designated officer or officers of the city, for inspection as to the safety of all flues, elevators, drainage, plumbing, electrical wiring, power and lighting or heating arrangements, and as to the sufficiency of all supporting parts and the general safety of such buildings and additions.

The commission may provide by such ordinance that no building or addition thereto shall be erected within the city without the owner or builder thereof having first obtained from the officer designated to make such inspection, a license or "building permit" authorizing the erection of such structure. Such ordinance shall provide for the keeping of a permanent record of all such permits or licenses, and the keeping on file, or on record, of a full description of all such buildings and structures. The commission may by ordinance establish and maintain supervision over the construction and maintenance of electrical conductors within said city, whether they be located within or outside of buildings.

The commission may by ordinance regulate buildings already con-

structed, which in the judgment of the building inspector are either dangerous, unsafe or in a bad sanitary condition, and may require the removal or reconstruction of the same, or that they may be put in condition so as to render them safe or improve their sanitary condition.

Power to Enact Laws.

Sec. 53. The commission shall have authority to pass all ordinances not in conflict with the constitution and laws of the United States, or of this state, which shall be necessary and proper to carry into full effect any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in, the said city, or in the commission or any officers of said city; and to provide for the enforcement of any or all their ordinances by reasonable fines and penalties, or by imprisoning the offender or offenders violating such ordinance, and by compelling them to labor without compensation, at any of the public works or improvements undertaken or to be undertaken by said city, or by any or all of the said modes. *Provided, however,* that no person shall be imprisoned or compelled to labor as aforesaid more than one year or fined more than one hundred dollars for any one offense.

Police Court.

Sec. 54. The judge of the police court of the city of Wheeling shall be a practicing attorney at the bar of Ohio county, who has been at least two years in active practice of the law, and who shall have been for at least three years prior to the election a resident of the city of Wheeling. The judge of the police court shall receive a salary to be fixed by the commission, and no other compensation shall be allowed him. He shall preside over said police court and try and determine all cases over which said court has jurisdiction. In the event of his temporary absence or disability, the commission shall appoint a member of the Ohio county bar of good standing to preside over said court during the absence or disability of the regular judge, and the judge's salary shall be transferred and paid him for the time he serves as such judge.

Sec. 55. The said court shall have jurisdiction over all offenses against, or violations of, the ordinances of said city, and full authority to punish in any manner lawfully prescribed by such ordinances, the

offenders against or violators of the same. Such punishment may include the imprisonment of such offenders or violators, and the enforcement and collection of any fines or penalties provided by such ordinances, and compulsion to labor without compensation at any public works or improvements of the said city, or may be limited to one or two of such modes. *Provided, however,* that no fines shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned, or compelled to labor as aforesaid, more than one year for any one offense, and that no jury shall be allowed in any trial in said court for the violation of any ordinance of said city.

Sec. 56. The proceedings for the recovery of the fine or for the enforcement of the penalty prescribed by any ordinance shall conform to the regulations so far as they are applicable, prescribed in the code of West Virginia for civil proceedings before justices of the peace; but the judge or the clerk of said court may, for good cause, shown by affidavit, by an endorsement upon such summons, order the defendant or defendants to be arrested and brought before the said court to be dealt with according to law.

Sec. 57. In cases where evidence disclosed such a violation within the city, of a law of the state, that in the opinion of the judge of the police court the person accused should be committed to await the action of the grand jury upon an accusation made, the judge of the police court shall have the same jurisdiction and power as a justice of the peace in the county of Ohio, in regard to the apprehension, commitment and admission to bail of the person so accused; and, in the exercise of such jurisdiction and powers, shall be governed by the same regulations.

Sec. 58. The sessions of said court shall be at such time and places as the commission of said city shall by ordinance direct.

Sec. 59. The said court shall have full power and authority to enforce its orders and judgments, by any process of law which may be necessary and proper for the purposes, and all processes, executions and orders of said court shall be signed by the judge or acting clerk thereof. Such process and execution shall be directed to the chief of police of said city, to be executed by him or one of his deputies. In the execution of any process or order of said court, the chief of police or deputy shall have the same powers, be governed in his proceedings by the same rules of law, and be subject to the same liabilities as the sheriff of Ohio county. There may be charged for

the services of such officer the same fees as the sheriff is entitled to charge for like services, but all such fees, as well as all fines imposed by said court, shall be collected by the chief of police, and accounted for and paid by him to the treasurer of the city. The city shall in no event be liable for any such fees.

Sec. 60. The clerk of said court shall have authority to administer oaths within said city, and shall perform such duties as may be required by the judge of said court, or be prescribed by rule or order of said commission. Such clerk may charge the same fees for his services as are allowed to be charged by justices of the peace for like services, and such fees shall be collected by him in like manner as fees of the clerk of the circuit court are collected; but all such fees shall be accounted for by him to the city and paid over to the treasurer.

Sec. 61. A docket and other books required for the records and a seal shall be provided for the said court by the commission of the said city, and the seal may be altered or renewed as the said court may direct. Full faith and credit shall be given to the records of said court, and the certificates of its judge or clerk whether the seal of said court be affixed thereto or not, in like manner and with the same effect as if the same were records of the circuit court or certificates of the judge of a circuit court similarly authenticated.

Sec. 62. The said police court shall have power, upon rendering judgment against a defendant charged with the violation of an ordinance of the city, to render judgment against him also for the costs of prosecution incurred by the city. In every suit or prosecution for the violation of an ordinance the said court shall cause the person or persons at whose instance it was instituted to be designated upon the warrant or writ issued to arrest or summon the person charged, and if the person or persons charged shall not upon final hearing be convicted, and the said court shall be of the opinion that no sufficient or probable cause did exist for the institution of the said suit or prosecution, then judgment for the costs of the city, and of the defendant, or of either of them, as the court shall deem just, shall be rendered against the person or persons at whose instance such suit or prosecution was instituted.

Sec. 63. From the judgment of the said court in any case involving a greater penalty than a fine of ten dollars, and in any case where a penalty requiring imprisonment at labor at a work of public improvement is imposed, or in any case involving the validity of an or-

dinance of the said city, an appeal shall lie as a matter of right, to the criminal court of Ohio county, either on behalf of the defendant or of the city; but no defendant shall be entitled to such appeal until and unless he execute before the said police court, or its clerk, bond in such penalty, not exceeding two hundred dollars, as the said police court may prescribe, conditioned to perform the judgment or order of the criminal court of said county made or rendered upon such appeal. Every such bond shall be with security approved by the said police court or its clerk; but in any case in which an appeal is taken or granted on behalf of the city, no bond or security shall be required. Every such appeal shall be proceeded with, in the said criminal court, in the same manner as is provided by law for the proceedings in the criminal court in cases appealed from the justices of the peace. If on such appeal judgment be against the appellant it shall also be against the sureties on his appeal bond for costs, and for any fine or pecuniary penalty adjudged against him. No such appeal shall be allowed after ten days from the date of any final order or judgment desired to be appealed.

The City Prison.

Sec. 64. It shall be lawful for the commission to maintain within said city a city prison, and to ordain and enforce all necessary or proper regulations respecting the same, and vesting in the officer or officers of said prison under the supervision of the commission any or all powers and duties which, by the laws of this state, are or shall be vested in or imposed on the sheriffs or jailers of the several counties in relation to the county jails, or the custody of persons imprisoned therein.

Qualifications of Officers.

Sec. 65. Every officer before he enters upon the duties of his office, shall make and file with the auditor an oath or affirmation to support the constitution of the United States, and of the state of West Virginia, and to perform faithfully, honestly and impartially the duties of his office.

Sec. 66. The mayor and each commissioner shall give a good and sufficient bond in the sum of twenty thousand dollars, conditioned for the faithful performance of his duties and with a corporate surety authorized to do business in the state of West Virginia, or with such other surety or sureties as may be approved by a judge of the circuit court of Ohio county, and such bonds shall be filed with

the clerk of said court. Such officers and employes as the commission may determine by ordinance shall furnish and file like bonds with the commission in the amount fixed by such ordinance, but the treasurer's bond shall be filed with the mayor, and the furnishing of such bond shall be a necessary part of the qualifications of such officer or employe. The bonds of all appointive officers required to give bond shall be approved, as to form, by the city attorney. All premiums payable to surety companies shall be paid by the city.

Sec. 67. The commission shall have authority upon the filing before them, by any person, of charges in writing, of malfeasance or nonfeasance in office, verified by affidavit, against any officer of the city, in any department thereof, to cause an investigation of such charges to be made. The commission shall have authority to require the attendance of witnesses, and the production of any books or papers pertinent to such inquiry or investigation. The commission shall have power to remove or suspend any officer of the city found guilty upon such investigation of such charges against him.

Taxation and Finance.

Sec. 68. If at the beginning of the term of office of the first commission elected in said city under the provisions of this act, the appropriations for the expenditures of the city government for the current fiscal year have been made, said commission shall have power, by ordinance, to revise, to repeal or change said appropriations, and to make additional appropriations.

Sec. 69. The commission shall have the right to levy and collect taxes, to grant, to refuse to grant, or revoke licenses, including licenses for intoxicating liquors.

Sec. 70. The fiscal year of the city of Wheeling shall be fixed by ordinance.

Sec. 71. All property, real and personal, within the said city which is subject to taxation under the constitution and laws of the state of West Virginia, shall be assessed for and subject to taxation for the benefit of said city.

Sec. 72. The commission may by ordinance also levy an annual capitation tax of not exceeding fifty cents upon each inhabitant or tithable of said city, who, under the constitution of this state, is subject to a capitation tax.

Sec. 73. The county assessor or proper state officer shall furnish to the commission a transcript of the assessment of real and personal property on or before the first day of August of each year, and his fee for the same shall not exceed six hundred dollars.

Sec. 74. Subject to the limitations of the state laws prescribed as to the aggregate of all levies for city purposes, the commission shall annually cause to be levied and raised by a general tax upon all taxable property in the city:

First—An amount sufficient to pay the interest and any installment of principal falling due within the year upon all bonds of the public debt of the city, which shall be kept in a separate fund, to be called the public debt fund.

Second—An amount which, with the revenues from the water works, gas works and any other revenue-producing works or property in charge of the commission, will be sufficient to defray the expenses for the next fiscal year of all of the works and property, whether productive of revenue, or not, in charge of said commission, which taxes, when collected, shall, together with the revenues from such works, be kept in a separate fund to be called the public works fund. Of the amount levied to defray the expenses of the works and property in charge of the commission, a special portion, not exceeding ten cents on every one hundred dollars of the assessed value of all taxable property in the city shall be for the purpose of paving or macadamizing streets or alleys in said city, except as provided for in this act, and for the construction of sewers and curbing in said city, and that all percentage or compensation received by the city from franchises, grants, rights, or privileges for the use of the streets, alleys or public grounds of the city, shall be used exclusively for the purpose of paving and repairing the streets and alleys of said city.

Third—An amount sufficient to pay the salaries of all officers of the city, and the wages of all employes of the city, other than those engaged upon revenue-producing works, and all necessary, ordinary and contingent expenses of the city, not otherwise provided for, which, with all other moneys received by the treasurer, not belonging to any other fund specified by this act shall be kept as a separate fund, to be called the general city fund.

Sec. 75. Taxes, real or personal, shall become due on the first day of November in each year, and bear interest from the first day of January thereafter at the rate of six per cent per annum until paid.

Sec. 76. If any person against whom or upon whose property any tax shall be lawfully assessed for the benefit of said city shall not wholly pay such tax on or before the first day of July after the same shall become due, it shall be lawful for the officer authorized to col-

lect such tax to take reasonable distress of any personal property in said city belonging to said delinquent, or which he or she shall have any right or interest and sell such property, right or interest at public auction in said city, having given ten days' notice of the time and place of sale by advertisement posted in some public place in the city, and published or posted in such other manner as may be prescribed by ordinance of said city, if the commission shall by ordinance, require any other or more ample advertisement, and out of the proceeds of such sale, after defraying all proper expenses, to pay to said city the said tax or so much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied on and sold.

Sec. 77. All taxes assessed upon real estate for the benefit of said city shall remain a lien thereon, bearing interest at the rate of six per cent per annum until the same be fully paid. Such lien may be enforced by the leasing or sale of such real estate, under the order of any court having equity jurisdiction in Ohio county. Where the amount involved exceeds fifty dollars, suit is to be brought in the circuit court of Ohio county. If the amount involved is less than fifty dollars, suit may be brought before any justice of the peace of Ohio county, and the judgment obtained enforced by a suit in equity in the circuit court of Ohio county.

Sec. 78. Water rates shall be distrained for and collected in the same manner in which the collection of taxes owing to the city may be enforced. The collection of water rents shall also be enforced by shutting off the supply of water from delinquents, and the refusal thereafter to furnish water to delinquents until all arrearages are paid.

Sec. 79. In addition to all other means for the collection thereof, all taxes and water rates, as well as all other demands due to the city, may be recovered by an appropriate suit or proceeding, in the name of the city, before any justice of Ohio county, if the amount be within his jurisdiction, or in the circuit court of said county.

Sec. 80. Neither the auditor nor the treasurer nor any other disbursing officer of the city shall issue any order or check for the payment of money for any indebtedness contracted by the commission or any officer of the city, which shall have been contracted wholly, or in part, in excess of the amount which shall have been previously set by ordinance or resolution as the limit of expenses of the department within which indebtedness is sought to be created. The foregoing provision of this section is ordained as a restraining provision

only, and it is further declared that no act of such auditor, treasurer or other disbursing officer shall be in anywise held to render valid any debt contracted by or on behalf of the city in violation of the constitution and laws of the state. If any such officer of the city, as is mentioned in the first sentence of this section, shall violate the provisions thereof, he shall be disabled from holding such office, and shall forfeit and pay therefor, to the city, a fine of not less than twenty dollars nor more than one hundred dollars, or be imprisoned for a term not exceeding one year, or both.

Sec. 81. No debts, other than those authorized by this act, shall be contracted by or on behalf of the city in any manner, unless all questions connected with the incurring of such indebtedness shall have first been submitted to a vote of the people and have received three-fifths of all the votes cast for and against the same; nor shall any debt be contracted by the city 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 thirty-four years. No debt shall be incurred, even with the consent of the voters, to an amount including existing indebtedness, in the aggregate exceeding two and one-half per centum of the value of the taxable property in the city, as ascertained by the last previous assessment for state and county taxes.

Sec. 82. An act of the legislature of West Virginia "authorizing municipal corporations to issue bonds," passed December second, one thousand eight hundred and seventy-three, is intended to remain applicable to the city of Wheeling, except so far as this act is inconsistent therewith. The commission shall provide that city bonds be signed by the mayor and commissioner of finance of the city.

Deposits of City Funds.

Sec. 83. The commission shall provide by ordinance for the deposit of all public moneys coming into the hands of the treasurer, in such bank or banks, situated within the city, as offer, at competitive bidding, the highest rate of interest and give a good and sufficient bond issued by a surety company authorized to do business in the state, or furnish good and sufficient surety, or secure said moneys by a deposit of bonds or other interest bearing obligations of the United State or those for the payment of principal and interest of which the faith of the United States is pledged, including bonds of the District of Columbia, bonds of the state of West Virginia or of any

other state of the United States, legally issued bonds of any city, town, village, county, or other political sub-division of this or any other state or territory of the United States and as to which there has been no default of principal, interest or coupons, and which in the opinion of the treasurer are good and collectable, providing the issuing body politic has not defaulted at any time since the year one thousand nine hundred, in the payment of the principal and interest of any of its bonds, said security to be subject to the approval of the commission, in a sum not less than ten per cent in excess of the maximum amount at any time to be deposited; but there shall not be deposited in any one bank an amount in excess of the paid in capital stock and surplus of such bank, and not in any event to exceed one million dollars.

In such ordinance the commission may determine the methods by which such bids shall be received, the authority which shall receive them, and which shall determine the sufficiency of the security offered, the time for the contracts for which deposits of public money may be made, and all details for carrying into effect the authority here given. Proceedings in connection with such competitive bidding and the deposit of money shall be conducted in such manner as to insure full publicity, and shall be open at all times to the inspection of any citizen. As to any deposits made under authority of an ordinance of the commission, pursuant hereof, if the treasurer has exercised due care, neither he nor his bondsmen shall be liable for any loss occasioned thereby.

Miscellaneous.

Sec. 84. All copies purporting to be copies of the ordinances of said city, or extracts from the journal of the commission, which shall be printed by the authority of the commission or which shall be certified to be correct by the mayor of said city under the seal thereof, shall be received by all courts and magistrates of this state as *prima facie* evidence of the tenor of such ordinances, and of the acts and proceedings of the commission as therein set forth.

Sec. 85. This charter shall not invalidate any legal act done by the council of the city of Wheeling, or any officer of said city now or heretofore in office, and all ordinances, by-laws, and regulations, resolutions and rules of the council shall remain in force until altered, amended or repealed by the commission or by this charter.

Sec. 86. All ward boundaries and divisions of said city are here-

by abolished, and the commission is empowered to define and locate voting precincts for elections in said city, which shall conform, so far as practicable, to the territorial areas of the election precincts in said city for state and county elections.

Sec. 87. The commission shall divert into the city treasury, all fees paid to an officer or officers of the city by virtue of his or their offices.

Sec. 88. Any person who shall violate any of the provisions of this charter for violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Sec. 89. But this act shall not be effective unless the same shall be first submitted to the voters of said city, at a special election called for the purpose and adopted by a majority of the votes cast at such election. Said special election shall be held on the fourth Tuesday of the month succeeding the calendar month in which this act is enacted by the legislature of West Virginia.

This act shall be published in full once preceding said special election, in all the daily newspapers published in said city, and if ratified at such election, this act shall go into effect. No special registration of voters shall be required for said special election.

The ballots at said special election shall be in the following form:

[] For the commission government charter.

[] Against the commission government charter.

Sec. 90. It shall be the duty of the mayor, the city council and the auditor in office in said city when this charter takes effect, to comply with all the requirements of this charter relating to elections to the end that all things may be done necessary to the nomination and election of the officers to be first elected under this charter; and they shall likewise do all things necessary to comply with the provisions of this act with respect to submitting this charter to a vote of the citizens of said city at a special election for that purpose, as prescribed in section eighty-nine.

Sec. 91. All acts and parts of acts inconsistent with this act are hereby repealed.

(House Bill No. 31)

CHAPTER 75.

AN ACT to amend and re-enact sections seventy-one and eighty-eight, and to amend sections seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three and eighty-four of chapter three of the acts of the legislature of West Virginia, passed January twenty-sixth, one thousand nine hundred and nine, relative to street improvements and sewer construction in the city of Huntington, as amended by chapter seventy-eight of the acts of the legislature of West Virginia, passed February twenty-third, one thousand nine hundred and eleven, and to consolidate and re-enact said sections seventy-eight to eighty-four inclusive, so amended, into sections seventy-eight, seventy-nine, eighty-one, eighty-three and eighty-four.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC.		SEC.	
71.	Sidewalks and shade trees.	83.	Sewer construction; how paid.
78.	Street paving.	84.	Release of liens.
79.	Power to issue bonds for public improvements.	88.	Notice of assessments about to be laid; inconsistent acts repealed.
81.	Manner of paying for paving.		

Be it enacted by the Legislature of West Virginia:

That sections seventy-one, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four and eighty-eight of chapter three of the acts of the legislature of West Virginia, passed January twenty-sixth, one thousand nine hundred and nine, as amended by chapter seventy-eight of the acts of the legislature of West Virginia, passed February twenty-third, one thousand nine hundred and eleven, be amended, consolidated and re-enacted so as to read as follows:

Sidewalks and Shade Trees.

Sec. 71. The board of commissioners are authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine;

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

When such work is done by the city, and not let to contract, the board shall certify such assessments to the treasurer of the city for collection, who shall account for the same as directed by the board or by ordinance; and the treasurer shall accept payment, when tendered, of the amount of said assessment with interest to the date of payment, and unless said assessment shall have been paid within ninety days from the date of such assessment, then a copy of such report shall be certified by the city clerk to the clerk of the county court of Cabell county, who is hereby required to

record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. If any such assessment shall not be paid when due, the board of commissioners shall cause to be enforced the payment of said assessment, and interest, in all respects as herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor, the same as for taxes, which lien may be enforced in the same manner as provided for the sale of property for the non-payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments due the city. When such assessment shall have been paid in full, and a lien therefor shall be of record in the county clerk's office, the treasurer shall execute and deliver to the owner of said property a release of said lien, which may be recorded in the office of the county clerk as other releases of liens are recorded.

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

holder of such certificate, in the same manner as set out in section eighty-one in this act.

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

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

If the owner or occupier of any such lot or land shall be required by the board to lay, or relay, clean or repair any such sidewalk, curb or gutter, or shall be required to grade the space on either side of the sidewalk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction, and otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in the manner provided by ordinance or resolution adopted by the board, and the neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the board, as set out or referred to in said notice, shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the doing of said work, and the same remains undone, the board may

do, or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to the full extent set out in this section.

Street Paving.

Sec. 78. (a). The board of commissioners of the city of Huntington may order and cause any avenue, street, road or alley therein to be graded, or curbed or recurbed with stone, concrete or other suitable material, or paved or repaved, between curbs, with brick, wooden blocks, asphalt or other suitable material, or to be graded and curbed or recurbed and paved or repaved as aforesaid, or to be macadamized, or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it to contract as hereinafter provided in (d) of this section; and may purchase or condemn land for opening or widening avenues, streets, roads and alleys. The entire cost, or any part thereof designated by the board of commissioners, of such grading, curbing and paving, or macadamizing, or other permanent improvements of any of the avenues, streets, roads and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof, and the cost, or any part thereof, of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such avenue, street, road or alley so improved, except as otherwise provided in (g) of this section.

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

(c). Upon petition in writing of the owners of not less than one-

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

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

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

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

car or other railway company granted previous to the passage of this act.

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

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

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

(i) The notice for bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in two newspapers of opposite

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

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

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

Sec. 79. (a) Said city of Huntington is hereby authorized to issue its bonds for the purpose of providing for the costs of grading, paving and curbing, or macadamizing, or otherwise permanently improving, the avenues, streets, roads and alleys of said city, in anticipation of special assessments to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds, payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest, not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state, and the restriction and limitations of the state laws of this state relating to the issuances and sales of bonds, so far as

such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon; and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But said city shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of all the taxable property therein, as provided in chapter fifty-one of the acts of the legislature of one thousand nine hundred and five, except for the purpose of grading, curbing, paving, macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys therein, or constructing sewers therein or elsewhere, or acquiring or taking land or easement therein for street and sewer purposes, as provided for in this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or specially benefitted property adjacent thereto, or on such owner, shall not be included: and likewise the amount in any sinking fund, or the amount invested therefor as provided by law, for the payment of outstanding bonds, shall not be included in the estimate of existing indebtedness; *provided*, that the aggregate of its debt of every kind whatsoever, including such special street permanent improvement bonds, or sewer bonds, shall not exceed five per centum of the value of all taxable property therein.

(b) And it shall be the duty of the board of commissioners to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of commissioners may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer, who shall collect the same, and as such certificate and coupons are paid he shall deliver the canceled certificates to the party paying the same. A copy of said order shall be certified by the city clerk to the clerk of the county court of Cabell county, who

is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

(c) The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows: that is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. *Provided, however,* that the owner of any land so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided.

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

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

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

Sec. 81. The board of commissioners may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may, if the board so elect, stipulate that the costs thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) of section seventy-eight, or specially benefitted property owners, as provided in (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days, and one, two, three and four years, respectively, after the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually, which certificates, to be signed by the mayor and the clerk, or other person or persons designated of record by the board, may be sold, either to the contractor doing the paving or other said improvements, or to any other person, and which shall cover the entire cost of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; *provided*, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, or land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable annually, and the payment of the debt may be enforced as provided by law for the collection of other debts, or such lien may be enforced as provided in this act in the name of the holder of such certificates.

After a contract has been made by the board to pave or otherwise permanently improve any public road, avenue, street or alley in said city, under this act, and the paving or other permanent improvements, or any stipulated part thereon, has been completed, or the cost of acquiring or taking land as aforesaid has been ascertained, the board shall assess the amount each lot shall bear and shall make a written report, stating the number of lots and the blocks or tracts

of land when not laid off into lots, and the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the city clerk of said city, may be recorded in the clerk's office of the county court of Cabell county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section eighty-four of this act, and the clerk shall index the same in the name of each lot or land owner mentioned therein.

Sewer Construction.

Sec. 83. The board of commissioners of said city are authorized and empowered to order and cause to be constructed in said city, or part within and part outside the limits of said city, any public sewer, either main or lateral, or both, by contract, or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein or to condemn land or easement therein, in the manner provided in this act, for such sewer; and when the board shall order the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon, or abutting upon an avenue, street, road or alley in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provisions of (i) of section seventy-eight shall apply.

When said sewer is completed in any one block, or between two designated points, the board of commissioners shall cause a report to be made in writing, setting out the total cost of such sewer and a description of the lots or land as to location, frontage and ownership liable therefor, including the cost of acquiring or taking land or easement therein for such purposes and cost of surveys, notices, etc., therefor, together with the amount chargeable against each lot or piece of land and the owner thereof. If any lot fronts on two streets, or on a street and road, or on a street (or road) and alley, in which a sewer is constructed, it may be assessed on both of said streets, or street and road, or street and alley. Said board shall

enter an order upon its records setting forth the location and owner of each lot or piece of land, and the amount of said sewer assessments thereagainst, calculated in the same way as provided for street paving in (e) of section seventy-eight herein. The entry of such order shall constitute and be an assessment for such proportionate amount so fixed therein against said respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of commissioners may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same, and as such certificate and coupons are paid he shall deliver the canceled certificates to the party paying the same; and the city clerk shall file a certified copy of said order with the clerk of the county court of Cabell county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of lot or land thus charged with said assessment, and the assessments so made shall constitute and be a lien upon said lots or land, respectively, which shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city.

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

any time anticipate and pay such assessment or certificate with interest thereon on the whole unpaid amount till the time when the next certificate due shall become due. If such assessment shall not exceed fifteen dollars, it shall be in one amount due and payable in thirty days from date; if more than fifteen dollars and less than thirty dollars, then in two installments of equal amounts, due and payable in thirty days and one year, respectively, from date, and if more than thirty dollars, then in three equal installments due and payable as first aforesaid.

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

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

Release of Liens.

Sec. 84. In addition to the provisions for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, as elsewhere set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in title to such lot, the clerk of the county court shall mark upon the

margin of the trust deed book at which said certified report is recorded, that the lien is released to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited, and the county clerk shall thereupon write across the face of each of said certificates the date of their production to him for the release of lien, and shall sign his name thereto in his official capacity, for which he shall receive in advance a fee of twenty-five cents for each certificate so marked, from the person demanding the release of the lien aforesaid; but if more than one of the serial certificates against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

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

Provided, further, that any paving or sewer lien, which may be created in consequence of the provisions of this act, or any lien which may have heretofore been created in consequence of an act of which this is an amendment for an assessment, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against which it may have been assessed and made a lien, for a longer period than one year after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said one

year period, shall be pending for the enforcement of such lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said one year period; and, further, that no such paving or sewer lien heretofore placed to record in said county court clerk's office for an assessment, the last payment of which is past due, shall remain or be a lien against the real estate therein described for a longer period than one year from the time this act takes effect, unless a suit shall be pending at the end of said one year period for the enforcement of said lien, or the amount thereof shall in some way be involved in some action then pending.

All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as aforesaid; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance, which the board of commissioners is hereby authorized to enact, shall perform the duties here required to be performed by the treasurer.

Sec. 88. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section seventy-one or section seventy-eight, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section eighty-three, and said assessments thereagainst shall have been calculated as provided in this act, the board of commissioners shall give notice, by publication at least once a week for two successive weeks in two newspapers of opposite politics, published in said city, or in one

newspaper if two such papers be not published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof; and the owners of said property shall have a right to appear before said board, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made; and the board shall have the power to make any such corrections before it enters the same, as corrected, upon the records. If the publication in the newspapers aforesaid cannot be had at reasonable rates, the notice may be given in some other manner designated of record by the board. The fact that said assessments shall have been entered of record, as provided by this act, shall be *prima facie* proof that the notice mentioned herein was given as prescribed in this section.

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

(House Bill No. 34)

CHAPTER 76.

AN ACT to incorporate the city of Cameron in the county of Marshall, state of West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said city.

(Passed February 21, 1913. In effect January 1, 1914. Approved by the Governor February 25, 1913.)

- | SEC. | SEC. |
|---|---|
| 1. Body politic and corporate. | nance book; also keep bonds, etc. |
| 2. Boundaries. | 14. Proceedings shall be read. |
| 3. Officers. | 15. When ordinance or by-law deemed adopted. |
| 4. Municipal authorities—mayor, clerk and councilmen. | 16. Powers of council. |
| 4a. When act to take effect. | 17. Franchises, granting of. |
| 5. Elections. | 18. Power of council to pass ordinances, by-laws, etc. |
| 6. Certain powers granted. | 19. Mayor—his duty; salary. |
| 7. Terms of officers. | 20. The process shall be a summons, etc., to appear before the mayor. |
| 8. Officers shall take oath of office. | 21. Mayor to issue execution, etc. |
| 9. Council to define duties and fix compensation of officers by it appointed. | 22. Jailer, who shall act. |
| 10. Council shall require and take bonds from certain officers. | 23. Mayor's docket. |
| 11. Council may remove elective officers. | 24. Appeal. |
| 12. Council to fix time and place of meetings; presiding officer; quorum. | 25. What to be done in case of appeal. |
| 13. Clerk shall keep minute and ordi- | 26. What to be done if applicant is found guilty. |
| | 27. How appeals allowed. |

Sec.	Sec.
28. Clerk, duties of; license taxes, when payable; aggregate value of personal property and real estate, how ascertained.	42. Lien for taxes; how real estate returned delinquent.
29. Clerk shall have access to assessor's books when returned to county clerk's office; shall make out all tax tickets and turn same over to chief of police, <i>ex officio</i> collector.	43. Liquor license; the question of granting or refusing liquor license shall be submitted to voters, except when sale thereof is prohibited by constitution or statute of state.
30. Clerk to prepare all bills for license taxes and turn same over to chief of police for collection; duties of chief of police as to collection; clerk's office, where kept; financial statements; salary.	44. What council shall do after result of election is declared.
31. Treasurer, appointment and duties of; shall give bond.	45. Council may revoke license for a breach.
32. Solicitor, appointment, duties and compensation.	46. Council may impose a tax upon such license.
33. Chief of police, his duty; policemen shall give bond.	47. Licenses generally.
34. Chief or policeman's duty as to an offense in view; other duties.	48. Council shall prescribe by ordinance how licenses shall be applied for and granted.
35. Chief of police, <i>ex officio</i> collector; duties as such.	49. Power to condemn.
35a. Capitation tax; how collected.	50. Sidewalks.
36. Collection of taxes, etc., not otherwise provided for; duties of collector; salary.	51. Street paving; council has authority to provide for; contractor to give bond.
37. Chief of police, <i>ex officio</i> collector, to give bond.	52. Levy; duty of council.
38. Health officer, duty and salary.	53. Financial statement to be published in month of March in each year.
39. Water rents.	54. Power of city to issue bonds.
40. Street commissioner, appointment, duties and salary.	55. City of Cameron shall succeed to all rights, etc., of town of Cameron.
41. City engineer, how selected and his duty.	56. Act not to become effective until ratified by voters; when election held; act to be published; form of ballot.
	57. Duty of mayor, etc., now in office in relation to such election.
	58. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the inhabitants of so much of the county of Marshall as are within the bounds prescribed by section two of this act, now and hereafter residing within said bounds, shall be and they are hereby constituted a body politic and corporate, by and under the name of "the city of Cameron," and as such, and in that name, shall have perpetual succession and a common seal and may sue and be sued, contract and be contracted with, purchase, lease, hold and use real and personal property for municipal purposes, and, generally, shall have all the rights, powers and franchises belonging or appertaining to municipal corporations in the state of West Virginia.

Boundaries.

Sec. 2. The boundaries of said city shall be as follows: Beginning at the northeast corner of the county bridge over Grave creek; thence down the creek S. 87° 35' W. 160 feet; thence N. 41° W. 242 feet to a stake on the north bank of the creek; thence passing 6 feet to the west of Mrs. Barrett's house N. 23° 25' E. 1200 feet up a run

to a stake N. 45° W. 43 feet from a large sycamore tree; thence S. 66° 20' E. 2200 feet to a corner of the present corporation line; thence following said corporation line S. 85° E. 240 feet, N. 5° E. 985 feet, N. 3° W. 650 feet, N. 14° 30' E. 688 feet; S. 39° 10' E. 249 feet; S. 10° 15' W. 431 feet; S. 1° 45' E. 264 feet; S. 4° 15' W. 379.5 feet; S. 17° E. 360 feet; S. 24° 30' E. 41 feet; thence leaving the said present corporation line and running with a line of J. G. Crawford and Lizzie McConneaughey, N. 72° 50' E. 1712 feet to an iron pin, corner to Crawford and Lizzie McConneaughey; thence N. 60° E. passing the northwest leg of Geo. Yoho's wind pump and 5 feet to the north of the Simmons house, 2473 feet to an iron pin on the east side of the Waynesburg pike; thence S. 12° 50' E. passing an ash at 1136 feet, 1320 feet to a stake; thence S. 29° E. passing a chestnut tree at 1011 feet, 1211 feet to a stake; thence S. 85° 10' E. 966 feet to a gate post; thence S. 79° 05' E. 344 feet to a gate post; thence S. 85° 10' E. 768 feet to a stake, 68 feet east of a run; thence S. 14° 45' W. 1397 feet to the 28-mile post from Wheeling, at the B. & O. R. R. track; thence S. 24° 30' W. 880 feet to a stake on top of the hill; thence S. 42° 30' W. passing 30 feet to the east of Mrs. Barnett's house, 1875 feet to an ash on the hill side in H. Wentz's field; thence N. 72° 45' W. 1407 feet to a cucumber tree; thence N. 43° W. 1206 feet to a post near a drain, in Barney Wyley and Howard heirs line; thence with said line N. 78° W. 1243 feet to a locust tree; thence leaving the said line S. 73° W. 816 feet to a white oak 116 feet west of a run; thence N. 84° 15' W. 1150 feet to a stake; thence N. 89° 30' W. 1153 feet to a white oak 63 feet west of a run; thence N. 24° 47' W. 1000 feet to a wild cherry; thence N. 32° W. 1196 feet to the beginning.

Officers.

Sec. 3. The officers of said city shall be a mayor, clerk, chief of police and seven councilmen. The clerk shall be *ex officio* assessor and the chief of police shall be *ex officio* collector thereof. The said officers shall be elected by the qualified voters of said city. The mayor, clerk and seven councilmen shall constitute the common council of said city, which common council may, at its discretion, appoint a street commissioner, superintendent of water works, city solicitor and such other officers as may be deemed necessary from time to time, and fix the term, duties and compensation thereof. No person shall be eligible to any elective office

in said city unless he is a qualified voter thereof, nor unless he has resided therein for at least six months next preceding his election; and no person shall be eligible to the office of councilman unless he is a freeholder in said city; and if any councilman, during his term of office, shall cease to be a freeholder, his office shall be deemed vacant.

Sec. 4. The municipal authorities of said city shall consist of the mayor, clerk and councilmen, who, together, shall constitute a common council as hereinbefore set out; and all the corporate powers of said corporation shall be exercised by said council, or under its direction, except where otherwise provided herein.

Act to Take effect, When; Elections. Certain Powers Granted.

Sec. 4a. This act shall take effect on the first Thursday in January, one thousand nine hundred and fourteen, at which time the first election for city officers shall be held. Said election shall be held and conducted, and the results thereof ascertained, returned and determined, under such rules and regulations as may be prescribed by the council of the town of Cameron, the same being consistent with the general laws of the state governing municipal elections, and shall conform as nearly as may be thereto; but the proclamation calling said election shall, in addition to the usual matters in such proclamations contained, call attention to this act, and state fully the boundaries of the city of Cameron hereinbefore contained. On the said last named day there shall be elected a mayor, clerk, chief of police and seven councilmen, who shall be elected for a term of two years beginning on the first day of February next succeeding their election.

Sec. 5. Elections shall be held thereafter, biennially, on the first Thursday in January; said elections shall be held and conducted and the results thereof ascertained, returned and determined, under such rules and regulations as may be prescribed by the common council of the city of Cameron; the same being consistent with the general laws of this state governing municipal elections, and shall conform as nearly as may be thereto.

Sec. 6. During the interim between the time when this act shall take effect and the first day of February following, the present officers of the town of Cameron shall have and exercise over all of the territory of the city Cameron the same authority and jurisdiction herein given to the officers of the said city; *provided*, that if the officers of the city of Cameron, elected at the first election herein mentioned,

have not qualified as hereinafter provided, the said officers of the town of Cameron shall continue to exercise their said functions till all the legal requirements for such officers are fulfilled.

Terms of Officers.

Sec. 7. The term of office of the mayor, clerk, chief of police and councilmen shall begin on the first day of February next succeeding their election, and shall continue two years and until their successors shall have been elected and qualified. The appointive officers herein mentioned shall hold their offices during the pleasure of the council. Any former incumbent shall be ineligible for reappointment unless he shall have settled up the business of his former term or terms.

Sec. 8. Every person elected or appointed to any office in said city shall, within fifteen days after his election or appointment, and before entering upon the discharge of the duties of said office, take and subscribe to the oath of office prescribed by law for officers generally, which oath may be administered by the mayor or clerk of said city, or before any person authorized by law to administer oaths; and said oath together with the certificate of the person administering the same shall be filed with the clerk of said city.

Council.

Sec. 9. The council of said city shall have the right to fix a compensation for the members thereof, which compensation, however, shall not exceed twenty-five dollars per year to each member. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them, respectively, bonds payable to the city in its corporate name with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to the city, or have charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to "the city of Cameron" with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of

their duties and for the accounting for and paying over, as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons and their heirs, executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Marshall, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 11. The council shall have the authority to remove from office any elected officer of the city for misconduct or neglect of duty, by an affirmative vote of not less than five of the members of the council, but only after reasonable notice to such officer and a hearing of the charges preferred. Any vacancy in office, however occasioned, may be filled by the council for the unexpired term.

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

Sec. 13. The council shall cause to be kept by the clerk in a well bound book to be called the "minute book" an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the "ordinance book" accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city and all papers of the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk,

which shall be filed with the mayor. All printed copies of such ordinances, purporting to be published under authority of the council, and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deemed *prima facie* correct, when sought to be used as evidence in any court or before any justice.

Sec. 14. At each meeting of the council the proceedings of the last meeting shall be read, and, if erroneous, corrected, and signed by the presiding officer for the time being. Upon the call of any member the yeas and nays on any question shall be taken and recorded in the minute book.

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

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross-walks, drains and gutters therein for the use of the citizens or of the public, and to improve and light the same, and to keep the same free from obstruction of every kind; to regulate the width of the pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clear, by the owners or occupants of the real property next adjacent thereto; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses and soap factories within the city limits, or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the person causing the same, or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subjected to be covered by stagnant water; to prevent horses, hogs, dogs, cattle, sheep, or other animals and fowls of all kind from going or being at large

in such city, and, as one means of prevention, to provide for impounding and confining such animals and fowls, and, upon failure to reclaim, for the sale thereof; to protect places of divine worship and to preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide for, construct and maintain an adequate sewerage system; to provide and regulate the building of houses or 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 damage or danger by fire; to punish for assaults and batteries; to arrest, convict and punish any person for gambling or keeping gambling tables, commonly called A, B, C, or E. O. table, or faro bank or keno table, or table of like kind, under any denomination, whether the game or table be played with cards, dice or otherwise, or shall be a partner, or concerned in interest in the keeping or exhibiting of such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to suppress houses of ill fame and to arrest and punish persons loitering in, or visiting them, or loitering in saloons or upon the streets; to prevent lewd and lascivious conduct; the sale of indecent pictures or other representations; the desecration of the Sabbath day; profane swearing; the illegal sale of all intoxicating liquors, drinks, mixtures and preparations, beer, ale, wine, or drinks of like nature; to protect the person of those residing or being within said city; to appoint, when necessary or advisable, a police force, permanent or temporary, to assist the chief of police in the discharge of his duties; to build or purchase, or lease and 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 the ordinances or who may be committed in default of the payment of fines, penalties or costs, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such means to prevent their escape, while at work, as they may deem expedient: to erect, or authorize or prohibit the erection of gas works, electric light works or water works within the city limits; to prevent injury to such works or the pollution of any gas

or water used or intended to be used by the public or by individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light and power and to furnish light for the streets, houses, buildings, stores, and other places in and about said city; to provide a sewerage system for said city; to provide for and regulate the weighing and measuring of hay, coal, lumber and other articles sold or kept or offered for sale within said city; to regulate the running and speed of engines, cars and motor vehicles within the said city; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or any of them, for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of all pipes, conduits, and telephone, telegraph, electric light or other poles within said city, and the extension of any wires, lines and poles by any individuals or corporations; to create by ordinances such committees or boards, and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and to provide a revenue for the city for municipal purposes, and to appropriate such revenue to its expenses, and, generally, to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; to preserve and promote the health, safety, comfort and well being of the inhabitants thereof.

The council of said city shall have power and authority to control and regulate the construction and repairs of all houses and other buildings within the said city; to provide for the granting of building permits; to cause the removal of unsafe walls or buildings; and may prohibit the erection on any such street, or in any such square, of any building, or of any addition to any building unless the outer walls thereof be made of brick and mortar or other fire proof material; and to provide for the removal of any building or additions which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof.

The said council of said city shall have any and all additional power and authority granted to cities, towns and villages by section twenty-eight of chapter forty-seven of the code as amended by chapter fifty-three of the acts of one thousand nine hundred and five.

Franchises.

Sec. 17. Franchises may be granted by the city council to persons or corporations allowing such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service, but no such franchise shall hereafter be granted except under the following restrictions and conditions: No ordinance shall be passed granting any franchise for the use of any of the streets or alleys of the city for any of the purposes above named, until the same shall have been filed with the clerk at least thirty days prior to the time when it is to be acted upon by the council, and notice of such application, stating the object of such franchise and when the same will be considered by the council, shall have been given for thirty days, by publication in some newspaper of general circulation published in the city. Nor shall such franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard. Nor shall any franchise be hereafter granted by council for a longer period than fifty years; *provided*, that the council shall have the power to renew any such franchise for the term of fifty years when the same shall have expired. No franchise hereafter granted for a longer term than fifty years shall be of any force or validity. No grant of any such franchise shall be made without at the time of making it providing that the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction of such works. If any corporation or person to whom a franchise has been heretofore or may hereafter be granted, or their successors or assigns, shall fail to comply with the conditions of the ordinance granting such franchise within one year from the time said conditions are directed to be performed, said franchise shall be and the same shall become null and void.

Sec. 18. To carry into effect these enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions not repugnant to the constitution and laws of the United States or of this state; and to enforce any or all of such ordinances, by-laws, orders or resolutions by prescribing, for a violation thereof, fines and penalties and imprisonment in either the county jail of Marshall county or the city prison if there be one; but no fines shall exceed

one hundred dollars, and no terms of imprisonment shall exceed ninety days. Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced by and under the judgment of the mayor of said city, or in case of his absence or inability to act, of the clerk of said city, or in case of the absence or inability to act of both of said officers, of one of the councilmen appointed for that purpose by the council.

Mayor.

Sec. 19. The mayor shall be the chief executive officer of the city and shall see that the orders, by-laws, ordinances and regulations of the council thereof are faithfully executed; he shall be *ex officio* a justice and conservator of the peace within the city and shall within the same have possession of and may exercise all the powers and perform all the duties, whether in civil or criminal proceedings, vested by law in a justice of the peace. Any summons, warrant or other process issued by him may be executed at any place within the county of Marshall; he shall have power during the recess of the regular meetings of council to appoint special police officers when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the city are preserved and that persons and property therein are protected; and to this end he may arrest and detain, or cause the arrest and detention of all riotous and disorderly persons before taking other proceedings in the case; he shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city; he shall not receive any money due or belonging to the state or corporation, or to individuals, unless and until he shall have given the 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 relating to moneys received by justices shall apply to moneys received by him in like cases. The mayor shall receive a salary of not less than fifty nor more than two hundred dollars per annum; such salary shall be in lieu of the fees which would otherwise accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected, when practicable, and accounted for to the city, and he may tax such costs against any person or corporation found guilty of the violation of any ordinance of the city as are provided to be taxed and recovered by justices of said county in criminal cases.

Sec. 20. The process in proceedings to enforce any ordinances

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

Sec. 21. The mayor shall have the power to issue an execution for any fine and costs assessed or imposed by him for the violation of any ordinance, or he may at the time of rendering judgment therefor, or at any time thereafter and before satisfaction of such judgment, by his order in writing require the immediate payment thereof; and in default of such payment he may cause the person so in default to be apprehended and brought before him, and commit him to the jail of Marshall county, or, in his discretion, to the city prison, until the fine and costs are fully paid; but such imprisonment shall not exceed ninety days.

Jailer, Who Shall Act.

Sec. 22. The chief of police shall be *ex officio* jailer of said city, and shall have custody of all persons confined in the jail of said city. He shall provide for the comfort and safety of all such persons, and, from time to time, as required by council, shall report the expense of maintaining said jail. In the absence of the chief of police his several duties as jailer may be performed by the mayor, clerk or other police officer of said city.

Mayor's Docket.

Sec. 23. A book well bound and indexed, to be denominated the "docket," shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including the statement of complaint, the summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs and, in case the judgment be one of conviction, the action taken to enforce the same. The record of such case shall be signed by the mayor or other person acting in his stead, and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 24. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment, or for a fine of more than ten dollars, an appeal shall lie, at the instance of the person against whom such judgment is rendered, to the circuit court of Marshall county. Such appeal shall not be granted by the mayor unless, within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will appear before the said court on the first day of the next term thereof to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the circuit court on appeal. The provision of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases shall be applicable to the recognizance contemplated by this section, except where herein otherwise provided; but any money recovered thereon or by virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken the mayor shall forthwith deliver to the clerk of said court the complaint in writing, if any, the summons, a transcript of the record including the judgment, the recognizance and any other papers belonging to the case; and such clerk shall receive and file the same and place the case upon the trial docket of the next succeeding term of said court, and said court shall proceed to try the same in its order.

Sec. 26. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment, or the fine and imprisonment to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by said city, as well as the proceedings before the mayor as those in court, including a fee to the attorney for the city of five dollars, and the fees, if any, of the jailer or keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs as may be provided in sections ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section may be issued by the clerk upon order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer.

Sec. 27. From all judgments by the mayor, in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

Clerk.

Sec. 28. It shall be the duty of the clerk to keep a journal of the proceedings of the council and have charge of and preserve the records, papers, contracts and other documents belonging to the city; it shall be his duty to attend the sessions of the police court and keep an accurate record of its proceedings, and all judgments shall be entered by him within twenty-four hours after the same are rendered. He shall, in case of sickness or disability of the mayor to act, or in case of his absence from the city, or during any vacancy in the office of mayor, perform the duties of mayor, and shall be vested with all the powers necessary for the performance of such duties, including the right and duty to collect fines, forfeitures and licenses due the said city, and account for the same to the treasurer thereof; he shall also perform such other duties pertaining to the fiscal affairs of the city,

or otherwise, as may be required of him by this act or by council. All license taxes shall be payable on the first day of July of each year, or at such time as such license may be issued.

The officer whose duty it is to make out the land books for Marshall county shall, annually, at such compensation as agreed upon with council, not later than the fifth day of August, furnish to the clerk, showing in separate amounts the aggregate value of all the personal property and the aggregate value of all the real estate in the city as ascertained from the land and personal property books of said county for the current year. Upon receiving said statement the clerk shall present the same to council at a meeting to be held not later than the second Tuesday in August, for the purpose of determining the rate of levy in said city for the current year. As soon as the rate of levy shall have been fixed by council, the clerk shall furnish the officer whose duty it is to make out the land and personal property books, a certified copy of the order of the council fixing the rate of tax, and such officer shall thereupon extend the tax against the property situated in the city in the land and personal property books in separate columns in said book.

Sec. 29. The clerk shall, when the extended copies of the assessors's books are completed and returned to the clerk of the county court, have access to the same for the purpose of making out the tax bills of the taxes therein extended, and it shall be the duty of the clerk, who shall be *ex officio* assessor of said city, to make out all tax tickets, and when the same have been examined, compared and approved by the finance committee of the council and found to be correct, they shall be turned over to the chief of police, who is *ex officio* collector, not later than the tenth day of September following the levy, whose receipt shall be returned to the council and entered upon its record, and the chief of police shall be charged therewith.

Sec. 30. The said clerk shall prepare bills for all license taxes due said city, whenever the same shall become due and payable, and turn said bills over to the chief of police for collection, charging him therefor. The said chief of police shall proceed at once to collect all such taxes on licenses, and account to the treasurer therefor, as required herein for other collections. The said clerk shall keep his office at the office of the mayor, unless otherwise ordered by council, and shall keep his office open for the transaction of business during such business hours as may be necessary for the proper performance of his several duties. It shall be his duty to prepare the annual finan-

cial statement of said city, and when approved by the committee on finance, cause the same to be published in some newspaper published in said city; and if there be no newspaper so published, then in some newspaper published in Marshall county, West Virginia. The said clerk shall receive such compensation as may be fixed by council from term to term, which shall not be less than one hundred and twenty dollars nor more than three hundred and sixty dollars per annum.

Treasurer.

Sec. 31. The common council of said city, at its first meeting for the term for which its members are elected, shall appoint some bank, or individual of said city, treasurer thereof for a term of two years. Such treasurer shall receive and receipt for any and all moneys paid to him by the collector, mayor, or other officer, derived from any and all sources, keeping accurate account of all moneys so received and from what sources. The funds so deposited with him shall be disbursed only upon orders on the treasurer, under direction of council, signed by the mayor and countersigned by the clerk. The treasurer, once each month, shall report to council, showing the receipts and disbursements of the funds of the city, producing his books of accounts to the said council, or to any committee of the same for inspection, when so ordered by council. The treasurer shall, before entering upon the duties of said office, execute the bond required in section ten of this act. The personal pronouns "him" and "his" in this section, shall be taken to refer to the said treasurer, whether an individual or a bank.

Solicitor.

Sec. 32. The council may appoint a solicitor for said city, who shall be a practicing attorney of Marshall county. It shall be the duty of the solicitor to prepare, when directed by council, all ordinances for said city; to represent the said city in all matters and proceedings in any court in which the said city is interested; and to advise the said council on legal questions when requested to do so. He shall receive as compensation for his services such annual or special fees as may be agreed upon by said solicitor and council.

Chief of Police.

Sec. 33. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may, for good cause appearing to him, for neglect of duty or insubordination, suspend any such officer from duty, and report his action and reason therefor to the next regular meeting of the council for action thereon; he shall make a list of all dogs within said city liable to tax, collect the license tax thereon, and pay the same to the treasurer, as may be provided by ordinance of said city; he shall be present in the police court, whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall, with the consent of the council entered of record, but not otherwise, appoint one or more policemen, as the council may determine; he shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office and for the accounting for and paying over, as required by law, of all moneys which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one thousand dollars nor more than three thousand dollars, as the council may prescribe.

Each policeman appointed as prescribed by this section, shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over of all money which may come into his hands by reason of his said office, with sureties satisfactory to council, in a penalty of not less than one hundred nor more than five thousand dollars, as council may prescribe. *Provided*, that special officers appointed or deputized for temporary service, shall not be required to execute the bond herein required.

Sec. 34. In case a violation of any ordinance of said city is committed in the presence, or within view of the chief of police or other police officer, the offender may be forthwith apprehended and taken before the mayor and a complaint under oath, stating such violation, there lodged and filed; and thereupon such offender may be tried and dealt with according to law, without summons. The chief of police shall execute, within the county of Marshall, when directed to him, any proper process issued by the mayor in proceedings for the enforcement of ordinances; and shall collect by levy of execution, or

otherwise, and duly accounted for, all fines assessed and costs imposed in such proceedings. He shall also have all the rights and powers within said city, in regard to the arrest of persons, the collection of claims, and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the compensation therefor; and he and his sureties shall be liable to all fines, penalties and forfeitures that a constable is liable to, for any dereliction of duty in office, to be recovered in the same manner and in the same courts that such fines, penalties and forfeitures are recovered against constables.

Chief of Police—Ex Officio Collector.

Sec. 35. When the tax bills for any year have been turned over to the chief of police, as required by section twenty-nine hereof, the chief of police, as *ex officio* collector, shall give notice that said tax bills are in his hands for collection, stating the penalty for non-payment thereof and the time and place where the same may be paid, which notice shall be given by publication in some newspaper published in said city, or in Marshall county, and by notices carefully posted in public places therein; *provided, however*, that if there should be no newspaper so published, the posting of said notices shall be sufficient.

To all persons who shall pay their taxes in full before the first day of December next succeeding said levy, there shall be allowed a discount of two and one-half per centum on the whole amount of taxes so paid, and not otherwise.

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

Capitation Tax—How Collected.

Sec. 35-a. The assessor of Marshall county, while making the annual assessment required by law, shall, in addition to the duties enumerated in section fifty-three of chapter eighty of the acts of the legislature of one thousand nine hundred and seven, collect from every person residing in said city, liable for

the capitation tax mentioned in section two of article ten of the constitution, a capitation tax of one dollar for said city, in addition to the capitation tax in said section and chapter of said acts required to be collected, giving a separate receipt therefor; and the said assessor and his assistants shall have all the powers and perform all the duties, with reference to the assessment and collection of such tax for the city of Cameron, as are conferred and specified in said section and chapter of said acts with reference to the capitation taxes therein required to be assessed and collected. It shall be his duty further, once each week, to make accurate report to the treasurer of said city, listing the names of all persons from whom such tax has been collected, and turn over to said treasurer the amount so collected, less five per cent thereof, which part shall be retained by said assessor as his commission and only compensation for making such collections. The names of all persons liable for such capitation tax, residing in said city, and who have not paid the same to the assessor or his assistant while making the assessments herein referred to, shall, before the time herein mentioned for the making out of the tax bills for said city, be certified to the clerk thereof, giving the reasons for failure to collect the said capitation tax; and the clerk shall include such capitation tax in the regular tax bills of said city and place the same in the hands of the collector for collection as hereinbefore provided. It shall be the duty of the council of said city to supply the assessor with all necessary blank receipts and reports, incident to the additional duties herein imposed.

Sec. 36. The said collector shall receive all taxes and other moneys due the city, authorized by this act or any ordinance thereof to be paid to said city, the collection of which is not herein otherwise provided for, and shall receipt for the same; he shall keep an accurate account of all money paid to him for the use of said city, showing under separate accounts the amounts received on account of taxes, street pavement, forfeitures and from any other source; which account book shall at all times be open to the inspection of council or to any committee appointed by it for that purpose; he shall pay over to the treasurer within one week after receiving the same, all money so collected, showing an itemized statement of the several funds included in each payment, taking the treasurer's receipt therefor; he shall keep his office in the office of the mayor and shall keep his office open, as much as practicable, during business

hours; he shall, on or before the first day of January and the first day of July of each year, and oftener if directed by council, present to council a full, complete and detailed statement of all money with which he is chargeable, or that has been received by him from all sources up to that time, together with a statement of all money paid to the treasurer, and proper receipts therefor, and he shall at such time return a list of all taxes, levies, assessments and other claims in his hands for collection which he shall not have been able to collect by reason of insolvency, removal, or other causes, to which list he shall append an affidavit that he has used due diligence to collect the several items therein mentioned, but has been unable to do so. If the council shall be satisfied with the correctness of said list, it shall allow him credit for said claims, but may thereafter take such lawful measures to collect the same as shall be by it prescribed; the same being consistent with the law in such cases made and provided. The said chief of police and *ex officio* collector shall, upon the expiration of his term of office, or upon the order of council, turn over to his successor all the money, books of account and other property of said city in his possession; he shall receive such salary as may be fixed by council from term to term, which said salary shall not be less than fifty dollars nor more than eighty dollars per month.

Sec. 37. The said chief of police (and *ex officio* collector) shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance of the duties of his office, and for the accounting and paying over, as required by law, of all moneys and property which may come into his possession by virtue of his office, with sureties satisfactory to council, payable to the city of Cameron, in a penalty of not less than one thousand dollars nor more than five thousand dollars as council may prescribe. He shall be chargeable with, and it shall be his duty to collect the city taxes, levies and assessments under such regulations as may be prescribed by law and by the ordinances of said city, and if the same are not paid within one month after they are placed in his hands for collection, he may distrain and sell therefor in like manner and have the same power and authority possessed by the officer charged with the collection of state taxes. If the said collector shall fail to collect, account for and pay over to the treasurer of said city any or all money with which he may be chargeable, belonging to the said city, according to the conditions of his bond and orders of council, it shall be lawful for the council to recover the same by action or by motion, upon

ten days' notice, in the corporate name of the city, in the circuit court of Marshall county, against him and his sureties, or any or either of them, or his or their executors or administrators.

Health Officer.

Sec. 38. The health officer shall perform such duties as may be provided by any ordinance of said city, or by resolution of the council, and shall receive a salary at the rate of not more than one hundred dollars per year. He shall receive no compensation from said city, other than the salary herein provided.

Water Rents.

Sec. 39. All water rents due said city shall be ascertained from time to time as may now or hereafter be provided by council by proper ordinance or order passed thereby, and the bills for such water rents prepared by the clerk and placed in the hands of the chief of police for collection. The said chief of police, as *ex officio* collector, shall proceed at once to collect the same, and shall account to the treasurer for all collections as required in section thirty-six of this act regarding other collections for said city.

Street Commissioner.

Sec. 40. The council may appoint some competent person as street commissioner for said city, who shall perform all such duties as may now or hereafter, by ordinance, be imposed upon him. His salary shall be fixed by council from term to term.

City Engineer.

Sec. 41. The said council may employ a competent civil engineer for such general or special work as said council may from time to time deem advisable, and fix the compensation for said work.

Lien for Taxes.

Sec. 42. There shall be a lien on real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof by the authorities of such city from the time the same are so assessed or imposed which shall have the priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be

returned delinquent for the non-payment of the delinquent taxes thereon, a copy of such delinquent list may be certified by the council to the auditor and the same may be sold for the city taxes, interest and commission thereon, in the same manner, at the same time and by the same officer as real estate is sold for the non-payment of state taxes.

Liquor License.

Sec. 43. Except when the sale of intoxicating liquor is prohibited by the constitution or statute of this state, at each general city election the question of granting or refusing licenses for the sale of spirituous liquor, wine, porter, ale or beer and drinks of like nature, shall be submitted to the voters of the city; the persons voting in favor of granting such licenses shall have on their ballots the words, printed or written, "for license," and those voting against the granting of such licenses shall have on their ballots the words, written or printed, "against license," and it shall be the duty of the ballot commissioners of said city to cause the said words to be printed on all the ballots to be voted at said election; if a majority of the votes cast on this question be in favor of license, it shall be the duty of the council, until the next general municipal election, to grant such licenses to proper persons applying therefor as provided in the next following section of this act; but if a majority of such votes so cast be opposed, no licenses shall be granted by the council of said city.

Sec. 44. The council of said city, shall, if a majority of the votes on the question of granting such liquor licenses be in favor of granting such licenses, grant not to exceed one license to sell, offer or expose for sale, spirituous liquors, wine, porter, ale or beer, or drinks of like nature, for each one thousand persons resident in said city or fraction over five hundred as shown by the last authorized census of the same. When any such license is granted by the council it shall take from the person so licensed a bond, with approved security, in a penalty of not less than three thousand five hundred dollars, payable to the city of Cameron and conditioned as prescribed in section twenty-one of chapter thirty-two of the code of West Virginia. The council may provide for the punishment of such persons for the violation of any of the conditions of said bond, and suits may be brought and maintained against such persons and their sureties on such bonds, for the same object, by the same persons, in the same manner and with like effect as upon a bond taken under the section mentioned,

and also for any fines and costs that may be imposed by the mayor for any offense against the city, under its ordinances, involving a breach of the conditions of such bonds.

Sec. 45. The council may revoke any license for a breach of any of the conditions of such bond, or for other good causes shown, but the proper person holding the license must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and he shall be entitled to be heard, in person or by counsel, in opposition to such revocation. Upon the conviction of any person holding such license, or a violation of any of the provisions of section twenty-one of chapter thirty-two of the code, or of any ordinance of said city in pursuance thereof, he shall be fined by the mayor not less than twenty dollars nor more than fifty dollars for the first offense, and not less than fifty dollars nor more than one hundred dollars for any offense after the first, and in the discretion of the mayor, in addition to the fine for a conviction of an offense, after the first, such person shall be confined in jail for not more than sixty days. Upon the conviction of any person of any such offense, other than the first, the mayor may revoke the said license of such person and thereafter any sale made by him shall be a sale without license; to which judgment of the mayor an appeal may lie, at the instance of the person holding such license, to the circuit court of Marshall county, as provided in section twenty-four of this act.

Sec. 46. The council shall have the authority to impose, for the use of said city, a uniform tax upon such license at the rate of not less than one thousand dollars nor more than fifteen hundred dollars for each license so granted for each year.

Licenses Generally.

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

Sec. 48. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the clerk of said

city before delivery to the person applying therefor, and the provisions of section forty-one of chapter thirty-six of the acts of one thousand nine hundred and five, and the provisions of section forty of chapter eighty-two of the acts of one thousand nine hundred and seven, regular session, and the provisions of section thirty-nine of chapter sixteen of the acts of one thousand nine hundred and seven, extra session, of the legislature of West Virginia, relating to licenses, shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the council may determine.

Power to Condemn.

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

Sidewalks.

Sec. 50. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks or footways on the streets, avenues or alleys of the said city to be paved with brick, stone or such other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots facing or abutting on such sidewalk or footway; and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, and if the said assessment be not paid within thirty days from the date of said notice, he shall cause a memorandum showing the name of the owner of said lot, a description of the lot and the amount of such assessment to be filed in the office of the clerk of the county court of

Marshall county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity, in the name of the city, in the circuit court of Marshall county, as other liens against real estate are enforced; and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien; *provided, however*, that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways; and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in said city or, if there be no newspaper published in said city, then in any newspaper published in Marshall county. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving.

Sec. 51. The council shall have the authority to provide that any street, avenue or alley in said city, or any portion of any such street, avenue or alley between the curbstones, shall be macadamized or paved with bricks, cobblestones, or other suitable material, upon the lowest and best terms obtainable. Such work may be done by council under the supervision of its street commissioner or any engineer appointed for that purpose; or the contract for such work may be let to any responsible person, firm or corporation, which said person, firm or corporation shall, before beginning such work, execute a bond, payable to said city, conditioned upon the faithful, prompt and proper performance of said work. The said city shall pave from curb to curb, unless by agreement of any abutting property owner or owners, he or they may assume the payment of any part of the cost of such pavement, in which case the approximate amount proposed to be so paid shall be deposited in some bank in said city, payable to said city when such work is completed and accepted by council.

Levy.

Sec. 52. The council shall cause to be made up annually, and spread upon its minute book, an accurate estimate of all the sums which are or may become lawfully chargeable against the city, and

which ought to be paid within one year, and it shall order at a meeting held by it in the month of August of each year, as provided by law, a levy of so much as will, in its judgment, be necessary to pay the same. Such levy shall be upon all real and personal property otherwise subject to state and county taxes, and an annual capitation tax of one dollar upon each male inhabitant of said city who has attained the age of twenty-one years; *provided*, that such levy shall not exceed the amount prescribed by statute law on each one hundred dollars of the ascertained value of such property, except as herein otherwise provided.

Financial Statement.

Sec. 53. In the month of March in each year the council shall cause to be published in some newspaper published in the city, or Marshall county, at a compensation not to exceed the rate as provided by law for like publications, for one issue, a sworn statement of the financial condition of said corporation; and said statement shall be prepared by the city clerk as provided in section thirty of this act, and shall contain an itemized account of the receipts and expenditures of the city, showing the source from which all the money was derived, and the name of the person to whom an order was issued, together with the amount of each order, and why such order was issued, arranging the same under distinct heads; and also a specific list of the debts of the city, showing the purpose for which any debt was contracted, the time it becomes due, the rate of interest, up to what time the interest thereon has been paid, the amount of money in the treasury at the end of the preceding administration and the debts contracted by it. Such statement shall be prepared by the city at the close of each fiscal year and then shall be printed according to the provisions of this section. This report shall be sworn to by the clerk, by the mayor and by members of the financial committee of the council. A copy of such printed report shall be delivered to the judge of the circuit court, one to the clerk of the county court and one to the clerk of the circuit court of Marshall county, and one shall be kept as a part of the records of the city. If council fail or refuse to perform the duties herein named, every member of such council and the clerk thereof concurring in such failure or refusal, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than one hundred dollars.

Bonds—Additional Levy.

Sec. 54. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of the said city and to apply the proceeds thereof to the payment for any general improvements therein, or to any debt or obligation of said city which by general statute or by this act the said city is permitted or required to pay; and to meet the demands of such bond issue, or issues, the council may levy, in addition to the levy by general statute authorized, a sum sufficient to pay off said bonds and the accruing interest, when so directed by ordinance calling for such bond issue; and in addition to the levying power of council herein set out, such additional levies as are authorized by section five of chapter nine of the acts of the extra session of the legislature of one thousand nine hundred and eight, may be made whenever council may deem it advisable, and they meet the requirements of said section.

Sec. 55. The city of Cameron shall succeed to all the rights, powers and responsibilities, and be vested with the title of all property of the town of Cameron as heretofore and at present existing; and all officers of said town acting at the time this enactment shall take effect shall continue in office and relinquish the same as directed in sections four, five and six of this act, and receive for such services the compensation allowed therefor by the said town of Cameron. All ordinances, by-laws and rules of council in force in said town at the time this act takes effect, unless in conflict herewith, shall continue to have full force, operation and effect until amended, repealed or superseded by council under authority herein given, or by general statute.

Sec. 56. But this act shall not become effective unless the same shall first be submitted to the qualified voters residing within the proposed city of Cameron, as shown by the boundaries thereof set out in section two of this act, and having received a majority of all votes cast at the special election hereinafter provided for.

This act shall be submitted to said voters at a special election to be held within the proposed city of Cameron on the fourth Tuesday of the month next succeeding the calendar month in which this act is enacted by the legislature of West Virginia.

This act shall be published in full once a week for three successive weeks immediately preceding said special election in the *Cameron Star-Tribune*, a newspaper published in said city, and if ratified

at such election this act shall go into effect as provided for in section 4-a of this act.

Form of Ballot.

The ballots at said election shall be in the following form:

[] For ratification.

[] Against ratification.

Sec. 57. It shall be the duty of the mayor, the council and the recorder now in office to perform the duties in relation to such election as required by general law of county courts and officers on January first, one thousand nine hundred and thirteen; and the provisions of chapter three of the code of West Virginia, and the amendments thereof in effect on that date shall govern such election, and the penalties prescribed relating to elections shall be enforced against offenders at such election hereinbefore provided.

Sec. 58. All acts and parts of acts, whether special or general, coming within the purview of this act and inconsistent herewith are hereby repealed.

(House Bill No. 79.)

CHAPTER 77.

AN ACT amending and re-enacting section twenty-one of an act passed on the twenty-fourth day of February, one thousand eight hundred and seventy-two, entitled, "an act to amend and re-enact the charter of the town of Charles Town, in the county of Jefferson," as last amended and re-enacted by chapter one, of the acts of one thousand nine hundred and seven, extra session.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 7, 1913.)

Sec. 21. Power of council defined.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of an act passed on the twenty-fourth day of February, one thousand eight hundred and seventy-two, entitled, "an act to amend and re-enact the charter of the town of Charles Town,

in the county of Jefferson," as amended and re-enacted by chapter one of the acts of one thousand nine hundred and seven, extra session, be, and the same is hereby amended and re-enacted so as to read as follows:

Sec. 21. The council shall have power to open new streets and extend, widen, straighten and repair old streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same; and shall have control of all the avenues for public use in said town; to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and footways for public use in said town, to be done and kept in good order by the owners or occupants of the adjacent property; to control the construction and repair of all houses, bridges and culverts; the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to purchase, to lay off and appropriate public grounds and control the use of the same; to provide, contract for and take care of all public buildings proper to the town; to provide for the regular building of houses or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated anything which, in the opinion of the majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide in or near the town places for the burial of the dead, and regulate the interments in the town, and provide ornamental trees; to provide for making division fences and for the draining of lots by proper drains and ditches; to make regulations for guarding against danger or damages from fire; to provide for the poor of the town; to organize one or more fire companies and provide the necessary apparatus, tools, implements, engines, or any of them, for their use; to provide a sufficient revenue for said town, and appropriate the same to its expenses; to issue bonds of the corporation and make sale thereof; but no such bonds shall be sold by said corporation for less than par, nor bearing a higher rate of interest than eight per cent per annum; nor shall said corporation be indebted on account of such issue at any period in a greater sum than ten thousand dollars without the consent of a majority of the voters of

the town expressed at an election held for that purpose; nor shall the whole indebtedness of said town at any time ever exceed the sum of one hundred thousand dollars; to provide for the annual assessment of taxable persons and property in the town; to adopt rules for the transaction of business and for the government and regulation of its own body; to promote the general welfare of the town, and to protect the persons and the property of the citizens therein; to appoint the officers authorized by section sixteen of this act, fix their term of service and compensation, require and take from them bonds, with such sureties and in such penalties as the council may determine, conditioned for the true and faithful discharge of their duties and remove them at pleasure, (all bonds taken by the council shall be made payable to the town by its corporate name); to provide for and regulate the weighing of hay, coal, wood and other articles sold or for sale in said town and to regulate the transportation thereof through the streets; to establish and regulate markets, to prescribe the time for holding the same, and what articles shall be sold only in said markets; to protect places of divine worship; to lay off the town into three or more wards and to appoint and publish the places of holding town elections; to erect, or authorize, or prohibit the erection of gas works in or near the town; to prevent injuries to and provide protection of the same; to provide for the purity of the water and the healthfulness of the town; for all of which purposes, except that of taxation, the council shall have jurisdiction for one mile beyond the corporate limits of said town.

(House Bill No. 95.)

CHAPTER 78.

AN ACT to amend an act of the legislature of West Virginia passed on the twenty-seventh day of February, one thousand eight hundred and sixty-six, entitled, "an act to amend an act to incorporate the town of Piedmont, in the county of Mineral, (late Hampshire)." and being chapter eighty-six of the acts of one thousand eight hundred and sixty-six, and to change the corporate limits of said town, so as to include additional territory and consolidate into one act, the whole charter of said town.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 8, 1913.)

- | | |
|---|---|
| <p>SEC.</p> <ol style="list-style-type: none"> 1. The city of Piedmont. 2. Corporate limits. 3. Municipal authorities. 4. Officers. 5. Corporate powers. 6. Body politic. 7. Re-survey, open, vacate, etc., and other duties defined. 8. May adopt and enforce needful orders, etc. 9. Qualification of voters. 10. Provide for registration of voters. 11. Elections. 12. Election of mayor; term. 13. Eligibility for mayor. 14. Election of councilmen and recorder; term. 15. Eligibility for office. 16. Penalty of officer being interested personally in contracts, etc. 17. Oath required of mayor. 18. Oath of officers. 19. Vacancy of mayor, how filled. 20. Term; when to fill vacancy. 21. Council, power to remove officers. 22. Officers may perform other duties. 23. Journal of proceedings. 24. Meetings of council. 25. Quorum. 26. Salaries. 27. Appointive officers. 28. Duties of mayor. 29. Duties of recorder. 30. Duties of auditor. 31. Additional duties. 32. Duties of city attorney. 33. Duties of police judge. 34. Style of ordinances. 35. How ordinances are passed. 36. All ordinances shall be spread upon record and read at next meeting, etc. | <p>SEC.</p> <ol style="list-style-type: none"> 37. Franchises. 38. Estimate of expenses and levy. 39. When city license may be required; bond required; a city license tax may be required for. 40. Council control granting and revoking license; may prohibit, what. 41. Taxes, how collected; council may allow discount; other duties may be required of sergeant. 42. Property liable for taxes. 43. Lien on real estate for taxes. 44. How liens may be enforced. 45. Money, how appropriated. 46. Sewers, paving and curbing. 47. How paving contracted and paid for. 48. Sewers, how built and paid for. 49. Liens for paving and sewers. 50. How liens held against certain property. 51. May borrow money. 52. May bond the city for. 53. Buildings for use of city. 54. Health, slaughter houses, etc. 55. Council to regulate sale of cocaine and poisonous drugs. 56. Shall appoint health commissioner, when. 57. Police department; policemen, how selected; term; may be removed; not eligible to reappointment, when. 58. Fire department 59. Concerning bribes. 60. Officers term expires, when; valid ordinances. 61. Inconsistent acts repealed. |
|---|---|

Be it enacted by the Legislature of West Virginia:

ARTICLE I.

The City of Piedmont.

Sec. 1. That the inhabitants of so much of the county of Mineral as are within the boundaries prescribed by article two of this act, and their successors, shall constitute, be and remain a municipal corporation by the name of "the city of Piedmont."

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate limits of the city of Piedmont shall be as follows, to-wit: Beginning at a stone marked number one on the south side of the county road leading from Piedmont to Keyser, Mineral county, West Virginia, said beginning being south sixty degrees

west two hundred and eighty feet from a stone in the center of the county road about eight hundred feet east of where Odel Spring Run crosses the county road and running thence north 60 degrees east 664 feet, at 280 feet crossing the county road and at 595 feet crossing the Baltimore and Ohio railroad tracks, and running thence with the Potomac river; north 15 degrees 35 minutes west 485 feet; north 3 degrees 30 minutes east 760 feet; north 4 degrees 30 minutes west 208.7 feet; north 10 degrees 24 minutes west 463.5 feet; north 2 degrees 31 minutes east 169.1 feet; north 6 degrees 14 minutes west 97.9 feet; north 9 degrees 55 minutes west 158.6 feet; north 9 degrees 40 minutes west 251.3 feet; north 22 degrees 37 minutes west 329.7 feet; north 24 degrees 51 minutes west 491.1 feet; north 52 degrees 25 minutes west 373.4 feet; north 71 degrees 30 minutes west 140.1 feet; south 80 degrees 32 minutes west 296.9 feet; north 79 degrees 20 minutes west 265.2 feet; north 62 degrees 39 minutes west 137.4 feet; north 79 degrees 24 minutes west 107.5 feet; north 59 degrees 15 minutes west 594 feet; north 54 degrees 5 minutes west 112.7 feet; north 9 degrees 32 minutes west 361.4 feet; north 16 degrees 38 minutes west 182 feet; north 21 degrees 44 minutes west 513 feet; north 31 degrees 58 minutes west 258.5 feet; north 53 degrees 37 minutes west 132.8 feet—at 70 feet center of abutment Piedmont and Westernport bridge; north 69 degrees 48 minutes west 115 feet—at 100 feet center of abutment of Cumberland and Pennsylvania railroad bridge; north 86 degrees 49 minutes west 303.3 feet; south 83 degrees 48 minutes west 373.4 feet; south 72 degrees 21 minutes west 288 feet; south 82 degrees 41 minutes west 79 feet; south 60 degrees 57 minutes west 198.4 feet; south 48 degrees 49 minutes west 399.1 feet; south 32 degrees 44 minutes west 409 feet; south 9 degrees 46 minutes west 412.3 feet; south 8 degrees 49 minutes west 499.8 feet; south 11 degrees 27 minutes west 646 feet—at 15 feet center of abutment Piedmont and Luke bridge, thence leaving the Potomac river; south 55 degrees 3 minutes east 680 feet—to stone marked 36 near old mine opening on hill at 50 feet on this line crossing the Baltimore and Ohio railroad tracks; north 76 degrees east 1700 feet to a stone; south 35 degrees east 2200 feet to a stone north 22 degrees west 20 feet from a maple, 6 notches; at 614 feet locust on line; at 1235 feet white oak 7 feet to the right; south 32 degrees east 1079 feet to a stone on west side of a road near Odel Spring Run, also south 71 degrees west 15 feet from a maple, 6 notches; at 747 feet Fire Clay Tram Road; at 1020 feet Odel Spring Run; thence south 41 degrees east 791 feet to the beginning.

ARTICLE III.

Municipal Authorities.

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

ARTICLE IV.

Officers.

Sec. 4. In addition to the municipal authorities mentioned in article three of this act, the said city of Piedmont shall have a treasurer, sergeant, city attorney, chief of police, building inspector, who may be one of the council, a police judge, who shall be the mayor, a health commissioner, an auditor and such other officers and agents as the council may from time to time create or employ.

ARTICLE V.

Corporate Powers.

Sec. 5. All of the corporate powers of said city shall be exercised by the said council or under its authority, except as otherwise provided herein.

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

Sec. 7. The municipal authorities of said city, acting under the powers and in the manner herein specified, shall have and are hereby granted the power to have said city re-surveyed; to open, vacate, broaden, widen and repair streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve, repair and light the same; to construct and maintain public sewers and laterals, and shall in all cases have power to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets and avenues, roads and alleys for public use in said

city, and to have the same kept in good order, free from obstruction on or over them; to have the right to control all bridges within said city and traffic passing thereover; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city, to be done and kept in good order by the owners of adjacent property; to control the construction and repairing of all houses, bridges, culverts and sewers, and to prescribe and enforce all regulations affecting the erecting, repairing or removal of all buildings and structures, and to require permits to be obtained for such buildings, plans and specifications thereof to be first submitted to the building inspector, and to prescribe and enforce regulations controlling the erection of such buildings, and to secure the safety and health of the public; to control the opening and construction of ditches, drains, sewers, cesspools and gutters; to deepen, widen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to build and maintain station houses, police stations and police courts, and to regulate the management thereof; to purchase, lay off, appropriate and control public grounds, squares and parks, either within or without the city limits as hereinafter defined, and when the council determines that any real estate is necessary to be acquired by said city for any such purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owners thereof in the same manner and to the same extent and under the same conditions as such power is conferred upon public service corporations by chapter forty-eight of the code of West Virginia of the edition of one thousand nine hundred and six; to provide, contract for and take care of all public buildings and structures deemed proper for the use of said city; to provide for and regulate the building of all houses or other structures and to determine the distance they shall be built from the street or alley; to cause the removal of unsafe walls or buildings; to compel owners of property to fence in or wall their property for the protection of the public safety; to prevent the injury and annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances; to regulate the keeping of gunpowder and all other combustibles; to provide and maintain proper places for the burial of the dead; to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide

for shade and ornamental trees and the protection or removal of same; to provide for the draining of lots by proper drains and ditches; to make proper regulation regarding danger and damage from fire; to provide for the poor of the city; to organize and maintain fire companies and to provide the necessary apparatus; to levy taxes on persons, property and licenses; to provide revenue for the city and appropriate the same to its expenses; to provide for the valuation of property as often as it may be deemed proper and for the assessment of taxable persons and property; to adopt rules for the transaction of business and for the government and welfare of its corporate bodies; to promote the general welfare of the city and protect the person and property of citizens therein; to adopt rules for the transaction of business and for the government and regulation of its corporate bodies; to appoint such officers as they may deem proper and require and take from them bonds with such security and in such penalty as may be determined, conditioned for the faithful discharge of their duties; to regulate and provide for the weighing of produce and other articles sold in said city; to regulate the transportation thereof through the streets; to establish and regulate markets, to prescribe the time for holding the same and what shall be sold only in such markets, and to acquire and hold property for market purposes if deemed proper; to regulate the placing of signs, bill boards, posters and advertisements and other obstructions in, on or over the streets, alleys and sidewalks of said city; to preserve and protect the peace, order and health of the city and its inhabitants; to appoint and fix places for holding city elections; to erect, own, lease, regulate, authorize or prohibit the erection of gas works, electric light works in or near the city, and to operate the same and sell the products thereof, and to do all things necessary and incidental to the conduct of such business; to provide for and preserve the purity of the water and health of the city; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the city and its inhabitants, and to punish violations of such ordinances, even if the offenses under and against such ordinances shall also constitute offenses under the laws of the state of West Virginia or the common law; to have and exercise all the rights, privileges and powers provided by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six, and amendments thereof not inconsistent with this act, and shall retain, keep and succeed to all rights, privileges, property, interests, claims and demands hereto-

fore acquired by, vested in or transferred to the city of Piedmont, or heretofore to the corporation of Piedmont.

Sec. 8. To carry into effect these enumerated powers and all other powers conferred upon said city, expressly or by implication in this and other acts of the legislature, the municipal authorities of said city shall have power in the manner heretofore prescribed to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of this state, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment, and with the consent of the county court of Mineral county, entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

ARTICLE VI.

Qualification of Voters.

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

ARTICLE VII.

Elections.

Sec. 10. The council shall by ordinance provide such regulations for the registration of voters as the state law may require.

Sec. 11. The first election under this act shall be held on the second Monday in May in the year one thousand nine hundred and fourteen; and the second election on the second Monday in May in the year one thousand nine hundred and fifteen, and on the same day every year thereafter. Such first election and all subsequent elections shall be held in such manner as is, or shall be prescribed by law for the holding of state elections and the council shall, for the first election held under this act, and at least ten days before said first election under this act, designate the voting place and the names of the commissioners, clerks and challengers to hold the said first election. Special elections for any purpose must be authorized by the council and called by the mayor. Notices of all special elections must be given by publication in at least one newspaper of general cir-

ulation, published in the city of Piedmont, at least thirty days before the date fixed for such special election, and by posting notices in such manner as the council may deem necessary. The council shall sit on the seventh day, Sundays excepted, after every election as a board of canvassers, each member of the council having one vote; and as such board of canvassers they shall canvass, ascertain, publish and declare the result of any election held; and the circuit court of Mineral county shall have power to control proceedings of said board of canvassers by mandamus and prohibition. The said board shall keep in a separate book, marked for that purpose, a record of its proceedings, and shall take down and record any evidence, motion, or paper filed, or offered by any candidate, which book and record shall be open to the public and shall be kept in the custody of the recorder.

ARTICLE VIII.

Election of Officers.

Sec. 12. On the second Monday in May one thousand nine hundred and fourteen, and on the same day every year thereafter, there shall be elected by the qualified voters of the city a mayor, who shall hold office from the first day of June succeeding in the year in which he is elected for a term of one year, and until his successor is elected and qualified.

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

Sec. 14. On the second Monday in May one thousand nine hundred and fourteen, there shall be elected by the qualified voters of the city three councilmen, the two receiving the greater number of votes to hold office from the first day of June one thousand nine hundred and fourteen until the first day of June one thousand nine hundred and sixteen, and the one receiving the least number of votes shall hold office from the first day of June one thousand nine hundred and fourteen until the first day of June one thousand nine hundred and fifteen, or until their successors are elected and qualified. Beginning with the first election held under this act, which will be on the sec-

and Monday in May, one thousand nine hundred and fourteen, and every year thereafter, there shall be elected three councilmen and a recorder, by the qualified voters of the city, the two councilmen receiving the highest or greater number of votes to hold office for a term of two years, and the one receiving the least number of votes to hold office for the term of one year; the recorder shall serve for a term of one year, and so on every year thereafter. The officers of the city elected under the old charter and at the election held in the year one thousand nine hundred and thirteen shall hold over until their successors are elected and qualified

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

Sec. 16. If any officer or councilman shall in any way become personally interested in any contract for labor, work, material or articles of any kind, done, performed or purchased for the city in any contract awarded after competitive bids, to which said city shall be a party, he shall be deemed guilty of a misdemeanor and shall be fined not to exceed three hundred dollars or imprisoned not to exceed three months, or both fined and imprisoned at the discretion of the court, and the judgment of conviction shall operate to vacate his office, and the judgment shall so state, and it shall operate to render such contract void and no money shall be paid thereon. Jurisdiction to try, determine and sentence for a violation of this section is hereby conferred upon the circuit court of Mineral county.

ARTICLE IX.

Oath of Mayor and Other Officers.

Sec. 17. The mayor, before taking his seat or performing any of the duties of such office, shall take and subscribe an oath or affirmation that he possesses the qualifications prescribed by this act to hold such office, and is not subject to any of the disqualifications prescribed therein, and that he will support the constitution of the United State and the constitution of this state, and honestly discharge the duties of his office to the best of his skill and judgment, which oath shall be written out and signed and filed and preserved among the records and books of the city.

Sec. 18. The recorder, councilmen and all other officers elected or appointed under this act shall take and subscribe an oath or affirmation in the time, manner, form and effect prescribed for the mayor.

ARTICLE X.

Vacancies Occurring.

Sec. 19. If a vacancy should occur in the office of mayor, the council shall, as soon as practicable, fill the vacancy by the appointment of some qualified person. If any vacancy occurs in any other office, whether elective or appointive, the council shall fill the same by the appointment of some qualified person subject to any regulations as required for the original appointment.

Sec. 20. All persons appointed to fill vacancies in the elective offices shall hold office until the next city election, and all vacancies in appointive offices shall be filled for the unexpired term.

Sec. 21. The council shall have and is hereby granted the power and authority to remove from office any officer, whether elective or appointive, for cause or upon written charges preferred by any responsible citizen to the council; but to remove from office under this provision, four-fifths of the members of the council must be present and four-fifths must concur in such removal, and the officer against whom the charges are preferred shall be served with reasonable notice of the same, together with the time of hearing upon such charges, together with a copy of such charges, and shall have the right to be represented before the council in person and by attorney, and the right to require all witnesses to be sworn and testify under oath before the council and to have the testimony taken down.

ARTICLE XI.

Officers May Perform Other Duties.

Sec. 22. Any member of the council, the mayor, recorder, treasurer or any other elective or appointive officer shall, during the time for which he was elected or appointed, be eligible or appointive to any other office under the city; *provided*, such employment is authorized by the council by resolution for such appointment; but in no case shall the time of service be for a longer period than said council is selected to serve under this act.

ARTICLE XII.

To Keep a Journal of Proceedings.

Sec. 23. The council shall keep a journal of all its proceedings

which shall, at all times, be open to the inspection of the taxpayers of the city and be a public record, and the ayes and noes of the members shall be taken on any question, at the request of any member, and shall be taken down and entered on the journal.

ARTICLE XIII.

Meetings of Council.

Sec. 24. The council shall hold regular meetings on the first and third Wednesdays of each month of the year, and such special meetings as the business to be transacted may require, at such time, place or places in the city as the council shall, from time to time, ordain or appoint; and the council shall have the power by proper ordinance or resolution, entered of record, to vest in any officer of the city or any member or number of members of their body, authority to call such special meetings and in like manner to prescribe the mode in and by which said special meetings shall be called. All questions put, except as to such matters as are herein otherwise provided, shall be decided by a majority of all the members elected. No business shall be transacted at any special meetings of the council unless specifically mentioned in the call for such meeting.

ARTICLE XIV.

Quorum.

Sec. 25. A majority of the whole number of members elected or appointed to the council shall constitute a quorum to transact business, but a smaller number may adjourn from time to time and may compel attendance of absent members in such manner and under such penalties as either body may by rules provide.

ARTICLE XV.

Salaries.

Sec. 26. The mayor, recorder, members of council, treasurer and other officers, employes and appointees, shall receive for their official services such salaries as the council shall, from time to time, by ordinance fix and establish; but the salaries of such officers shall not be increased or diminished during the term for which such officers were elected or appointed; *provided*, that the salaries of all officers elected or appointed for any term shall be fixed not later than thirty days preceding any election.

ARTICLE XVI.

Appointive Officers.

Sec. 27. The council shall by a majority vote of its members fill all appointive offices under the city administration.

ARTICLE XVII.

Duties of the Mayor.

Sec. 28. The mayor shall be chief executive officer of the city and shall preside at all meetings of the council and shall have a vote in case of a tie; he shall have charge and control of the police except as herein otherwise provided; he shall see, except as herein otherwise provided, that the laws and ordinances of the city are enforced; that the peace and good order of the city are preserved and that persons and property therein are protected, and to this end he may cause the arrest and detention of riotous and disorderly persons, and shall perform such other duties and services as the council may ordain in addition to the duties prescribed in this act and not inconsistent herewith. The recorder, except as herein otherwise provided, shall perform the duties of the mayor whenever and so long as the mayor is from any cause not able to perform his official duties, and he shall, in the absence of the mayor, perform any and all the duties of the mayor except he shall not preside over the council. In the absence of the mayor at a meeting of the council, the council shall select one of its own members to preside over its meetings, who shall have a vote as a councilman. If the mayor and recorder are both absent from the city, or otherwise disabled from performing the duties of the mayor, the council may elect a mayor *pro tempore*. The mayor shall have the power at any time to appoint special policemen, who shall be sworn in without confirmation of the council.

ARTICLE XVIII.

Duties of the Recorder.

Sec. 29. It shall be the duty of the recorder to keep a properly indexed journal of the proceedings of the council and board of health, and have charge of and preserve the records of the city; he shall, whenever required by the mayor, attend the police court and attend to all the duties as clerk of the police court of the city. In the absence of the mayor or police judge, he shall exercise the func-

tions of police judge; he shall perform all other duties required of him by order or by ordinance of the council; as recorder he shall receive compensation for his services to be fixed by the council, which shall not be increased or diminished during his term of office.

ARTICLE XIX.

Duties of the Auditor.

Sec. 30. The auditor shall be the city accountant and auditing officer of the city and it will be his duty to see that the accounts of said city are kept in a detailed and systematic manner, under the proper classification, so as to show the bonded and other indebtedness of said city, and the amounts and claims due the same, as well from taxes, levies and assessments as from other sources.

Sec. 31. In addition to the other duties of the auditor, it shall be his duty, on or before the first day of August in each year to make a copy from the real and personal property books of property shown to be liable to taxation within the limits of the city of Piedmont, and to certify such copy under his hand as a true and correct copy thereof, and to deliver the same to the council and to assist the council in preparing the annual estimate of expenses to be certified to the council as a basis for the annual levy. After such levy is made in each year, it shall be the duty of the auditor to extend said levy upon said real estate and personal property books for said city, and to prepare proper tax tickets therefrom against all owners of real estate and personal property subject to taxation in said city. He shall turn the said tax bills over to the treasurer or sergeant, who shall collect said taxes when due and payable, and the treasurer shall certify to the payments of same as made. In addition to the above duties of the auditor, he shall perform such other duties as the council shall prescribe.

ARTICLE XX.

Duties of City Attorney.

Sec. 32. The council shall appoint a city attorney, by a majority vote of its members, who shall be the legal adviser of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all the suits, actions and proceedings instituted on behalf of said city and shall defend all suits and actions against said city, and when requested to do so in writing, shall give

his written opinion to the mayor, council or any committee thereof, upon such questions as may be referred to him affecting the city's interests; he shall perform such other duties as may be required. It shall be his duty to attend all sessions of the police court whenever requested by the mayor or police judge, prosecute all trials therein and all appeals that are taken from such courts, and for his services shall receive such compensation as may be agreed on between him and the city council.

ARTICLE XXI.

Duties of Police Judge.

Sec. 33. The mayor or police judge shall be *ex officio* a justice and conservator of the peace within the city and he shall, within the same, have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city. He shall have the same power to issue attachments in civil actions as a justice of his county has, though the cause of action arose out of the city limits, but in such case he shall have no power to try the same but must have such attachment returnable and heard before some justice of the county. Any warrant or other process issued by him may be executed within the same territorial limits as that of a justice of the county. He shall have power to issue executions for all fines, costs and penalties imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of the city or the jail of the county of Mineral, until the fine, penalty or costs shall be paid, but the term of imprisonment in such cases shall not exceed sixty days. The expense of maintaining any person in the county jail shall be borne by the city, when said person has been committed to answer indictment. But such mayor or police judge shall not receive any money belonging to the state, or any individual, unless he shall give bond and security as required of a justice of the peace under the laws of the state of West Virginia; and all provisions under the laws of the state of West Virginia relating to moneys received by justices shall apply as to like moneys received by the mayor or police judge.

ARTICLE XXII.

Ordinance—General Provisions.

Sec. 34. The style of the ordinances of the city shall be: "Be it enacted and ordained by the council of the city of Piedmont," but the ordinances now in force shall remain in effect until amended or repealed, except where they are in conflict or inconsistent with this act.

Sec. 35. All ordinances shall be presented in writing and no ordinance shall be so amended in its passage as to change its general purpose. No ordinance shall be considered for final passage at the meeting at which it is introduced unless the same shall have been reported on by a committee, but reference to a committee may be dispensed with by an affirmative vote of three-fifths of the council as elected. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; nor shall any ordinance be passed by the council unless a majority of all the members elected to the council shall concur therein by yeas and nays when the question is put upon its passage.

Sec. 36. All ordinances passed by the council shall be spread upon the minutes, and at the next regular meeting such ordinances shall be read in open council, and the mayor shall sign said minutes, when found correct or corrected, in the presence of the council. The council shall provide a well bound book in which shall be copied all the ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinance. All copies thereof, certified as hereinafter provided, shall be received by all the courts and justices in this state as evidence; but the council may adopt by ordinance, properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and the said code shall be and become the laws and ordinances of the said city, and shall be received as such by all the courts in this state, and the printed volumes published under order of the council shall be so received as evidence of what is printed therein till errors or omissions be affirmatively shown therein.

ARTICLE XXIII.

Franchises.

Sec. 37. All franchises granting the right of occupancy of any por-

tion of the streets of the city for work of public utility and service shall be granted by the council, but no such franchise shall hereafter be granted except under the following restrictions and conditions:

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

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

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

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

ARTICLE XXIV.

Estimate of Expenses and Levy.

Sec. 38. A finance committee shall be appointed from the council members, by the mayor, and said finance committee shall, on or before the first day of August in each year, prepare and submit to the council an estimate of the amount of money necessary and advisable to be expended by the city for the current year next ensuing and to be provided for by the tax levy as herein provided for such current year, in which estimate the finance committee shall ascertain and present a detailed and itemized account or estimate of the money necessary to pay interest on the bonded indebtedness of the city, the amount re-

quired for the several sinking funds for the reduction of the principal thereof, the amount to be expended severally for the streets, alleys, curbing, waterworks, police department, fire department, street paving, sewers, salaries, parks, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts, other than that to be derived from the annual levy, and after receiving such estimates and before making the levy the council shall apportion the rate thereof, (including estimated receipts for licenses and all other sources), among the several funds so ascertained and provided for, which said apportionment when adopted, shall be spread upon the records of the council.

Upon the estimate of such expenses, the council shall thereupon, by an ordinance, lay a levy for the ensuing tax year of a sum not to exceed fifty cents on each one hundred dollars assessed valuation of all taxable property, real and personal, subject to taxation in said city, as well as a capitation tax not to exceed two dollars upon every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the state of West Virginia, and said council is authorized to levy to such maximum of fifty cents on each one hundred dollars of valuation, notwithstanding any general laws now in force, or which may be enacted, restricting the powers of municipal corporations to levy taxes.

Sec. 39. Whenever anything, for which a state license is required, is to be done within said city, or within two miles of the corporate limits thereof, the municipal authorities, as herein provided, may require a city license to be had for doing the same, and may, in any case, require from any person licensed a bond, with sureties, and in such penalty and with such conditions as it may deem proper, and the council may on notice revoke such license at any time if the conditions of the said bond be broken, or for good cause.

The municipal authorities may impose a license and assess a tax thereon on all wheeled vehicles for public hire, all dogs kept within the corporate limits, all insurance, bonding, casualty and guarantee companies, auctioneers, book agents, bowling alleys, billiard saloons, bagatelle saloons, bond, note and loan associations, building and loan associations, capitation taxes, commission merchants, common criers, circuses, menageries, theatres, drays, cabs, hacks, etc., eating houses, express companies, hitting and striking machines, hobby horses, junk dealers, real estate agents, insurance agents, livery and feed stables, liquor dealers, omnibuses, peddlers, pawn brokers, stock

brokers, slot machines, social clubs, street vendors, tobacco, snuff, cigars etc., theatrical shows, transient merchants, telegraph and telephone companies, electric light companies, gas companies, and other business, property, profession or occupation; bicycles, automobiles, butchers and vendors of meats, vegetables and other things sold on the streets of the city. The municipal authorities may prescribe, impose and enforce reasonable fine and imprisonment, under the order of the police judge of said city or the person lawfully exercising his functions, upon any person carrying or attempting to carry on any business for which the said license is required, without first obtaining a city license therefor, and paying the city license tax assessed thereon. All licenses provided for in this section shall be paid to the sergeant or treasurer. For the purposes of enforcing the provisions of this section the city shall have police jurisdiction for two miles beyond the corporate limits thereof.

Sec. 40. The council shall have the power to pass and make all regulations and pass all ordinances necessary and proper concerning the granting and revoking of all licenses. The city shall have the power to prohibit by ordinance and to punish persons abusing animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes and drunken and disorderly persons within the corporate limits; to provide for their arrest and manner of punishment; to prohibit and punish railroads bringing in paupers or persons or animals afflicted with dangerous diseases; to control and suppress bawdy houses, houses of assignation and gambling houses and to punish gaming; to prohibit slaughter houses within the prescribed limits and soap or glue factories of any kind; to restrain and prohibit the use of firecrackers, fireworks or other explosives, and all dangerous or unseemly noises which tend to annoy persons or frighten horses or other animals; to make regulations guarding against fire; to regulate the use of streets and alleys for street cars, railroads, railroad engines, traction engines, automobiles, and cars of all sorts, and regulate the running and operation of the same within the city limits; to regulate and prevent injury, inconvenience or annoyance to the public; to prohibit cock fighting and dog and prize fighting; to regulate and control the kind and manner of plumbing and electric wiring etc., for the safety and health of the public; to regulate, restrain and prohibit all animals and fowls running at large; to establish and regulate markets; to regulate signs and bill boards, posters and advertisements on or over streets; to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to provide for purity

of water, milk, meats, etc., sold in the city limits; to fix and change charges and prices for service or the articles of persons or companies operating public service plants, or other public institutions or utilities; to regulate public service corporations; to provide for inspecting dairies, slaughter houses and other places of like nature; to protect places of divine worship; to have abated and remove all nuisances; to regulate the construction of all water closets, privies, cesspools, pens, sinks, yards, stables and other places where offensive substances may accumulate; to regulate, and prescribe punishment for all violations against the public peace and welfare.

ARTICLE XXV.

Taxes—How Collected.

Sec. 41. The city taxes annually levied by said council shall be collected as follows: Immediately after the annual levy for city taxes is laid, the auditor shall extend the same on the property books made out by him, including thereon the proper capitation taxes. He shall make out proper tax tickets in the following manner, that is to say: There shall be a single ticket for the whole amount charged to any person, firm or corporation, and after the tickets have been examined and compared and found to be correct by the council, they shall be turned over to the sergeant or treasurer by the first day of October following the levy. The sergeant or treasurer shall receipt for the gross amount, said receipt to be returned and entered upon the record and the sergeant charged therewith. The sergeant shall then give notice, by publication or posting for at least ten days, stating that the tax tickets are in his hands for collection, the penalty for the non-payment thereof, and the time and place where the same may be paid; *provided, however*, that the taxpayer shall have the right to anticipate the payment of the whole or any part of the taxes as assessed. Immediately upon the payment of said taxes or any part thereof, the said amount shall be deposited by the sergeant or treasurer in one of the city depositories to the credit of the "city of Piedmont," and the sum so deposited shall be reported to the council at its first meeting after deposit is made. All taxes shall be due and payable within thirty days after the expiration of the notice posted by the sergeant as hereinbefore set forth, and in case the same are not paid within said time, he may distrain and sell therefor, in like manner as the officer collecting the state taxes may distrain therefor, and he shall have in all other respects the same power to enforce the

payment and collection thereof. On all tickets remaining uncollected in the hands of the sergeant thirty days after the date of the expiration of the notice posted by him, a penalty of five per cent shall be added and collectable, together with six per cent interest until paid; *provided, however*, that the council shall have the power any year, by resolution, to extend the time that such tax tickets may remain in the sergeant's hands and be paid to him, before adding the penalty, for a period not to exceed thirty days. The council may by ordinance allow a discount for prompt payment of taxes. The sergeant shall have the power to collect said taxes so placed in his hands, together with the penalty and interest thereon, heretofore provided, to be added thereto. The sergeant shall be charged with the gross amount of said tax tickets so delivered to him for collection, and no deduction therefrom shall be allowed unless on or before the first day of September of each year he makes out and returns to the council a delinquent list of the taxes uncollected for the year previous, with his oath attached thereto, stating that such delinquent list is correct and just, that he has received no part of the taxes mentioned thereon, that he has used due diligence to find property to distress for said taxes and has found none, and that the same are uncollectable. Penalties and interest, provided for in this section, to be added to such taxes, shall not be deemed or considered any part of the limitation in this act hereinbefore prescribed, restricting the annual city levy to fifty cents on each one hundred dollars valuation. The sergeant shall not take or collect anything but money for the payment of taxes. The sergeant shall perform such other duties as the council may require, and receive such compensation as shall be fixed by the council.

Sec. 42. All goods and chattels belonging to a person, firm or corporation or estate, assessed with any city taxes, whether the same be a capitation tax, tax upon real or personal property or an assessment for paving or other improvements, shall be liable for said taxes and may be distrained therefor in whosoever possession they may be found, and the sergeant shall have the same power to collect said taxes or assessments from any persons owing debts to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind, that the sheriff has to collect state taxes or enforce the collection thereof.

Sec. 43. There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties and

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

Sec. 44. Said liens for city taxes and attendant penalties, as well as for improvement assessments, may also be enforced by certifying the same to the clerk of the county court of Mineral county for certification to the state auditor, and the same may be certified down by the state auditor and sold for taxes, interest and penalties and commissions thereon, in the same manner, at the same time and by the same officer as real estate is sold for taxes, interest, damages, costs and commissions due the state thereon, which officer shall account therefor on settlement with the council and pay the same over to the treasurer.

ARTICLE XXVI.

Money—How Appropriated.

Sec. 45. No money shall be appropriated and no debts shall be contracted and no contracts authorized by the city, except by an ordinance passed by the council as specified herein, and no such ordinances shall be passed except where the funds to meet the same shall have first been provided by levy duly made in accordance with this act and its provisions. No contract shall be entered into involving or anticipating further levies, unless all the questions connected with the same shall have been first submitted to a vote of the people and shall have received three-fifths of the vote cast at such election.

ARTICLE XXVII.

Sewers, Paving and Curbing.

Sec. 46. The council shall have the power to establish the width of any sidewalk along any street, alley or public square, or portion thereof, and any owner of ground fronting on such street, alley or public square shall, in such manner as the council shall reasonably

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

Sec. 47. Whenever the council may deem it expedient to cause any street or alley in said city, or portion thereof, to be paved in a permanent manner, it shall order the work done in the following manner and upon the following terms: The contract for such paving shall, after due advertisement, in which the council shall reserve the right to reject any and all bids, be let, if let, to the lowest bidder. The contractor shall look only to the city for the payment for the work and in no sense to the abutting land owners. The total cost of grading and paving any such street or alley, (except when the streets are occupied by street car tracks, for the distance between the rails and for two additional feet outside of each rail, which portion shall be borne and paid by the company owning and operating such railway and tracks) shall be borne by the owners of the land abutting upon said street, alley or portion thereof, subject to the following plan, that is to say: Payment is to be made by all the land owners on either side of such portion of a street or block so paved, in such portion of the total cost, less the portion, if any, chargeable to such street railway company, as the frontage in feet of his land bears to the total frontage of all land so abutting on such street, alley or portion thereof so paved as aforesaid. The cost of such pav-

ing chargeable to the abutting property is not to include any portion or amount paid for paving of squares at intersections of streets, which shall in all cases be borne and paid by the city. When the paving of any street or alley or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the city engineer to cause the several frontages abutting thereon to be measured, to calculate the assessment upon each and every land owner so abutting, and to certify the same to the council, showing the proper amount to be determined as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessments, amounts and names so certified to it. Thereupon the council shall give notice by publication for two successive weeks in some newspaper published in said city that an assessment, under this act, is about to be laid against abutting property for paving done on said streets or alleys, describing the location of such paving. Any owner or owners of abutting property shall have the right to appear before said council within three weeks from the first publication thereof, and move such council to correct any apportionment or assessment improperly made; which corrections the said council shall have the power to make. If found to be correct, or when rectified, the council shall cause the same to be entered, together with the description as to the location, frontage, depth and ownership of the lands, 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 amounts so ascertained to be borne by them respectively. When so approved, certified and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. It shall be the duty of the council to immediately certify such assessment to the sergeant for collection as hereinbefore provided. A copy of such order shall be certified by the recorder to the clerk of the county court of Mineral county, who shall be required to record and index the same in the proper deed book in the name of each person against whose property assessments appear therein. The amounts so assessed against any land owners, as aforesaid, shall be paid in two payments as follows, that is to say: One-half of said amount shall be paid to the sergeant before the first day of June or the first day of December, whichever shall come first after said work is completed, certified and entered of record as aforesaid, and the other one-half shall be paid to the sergeant before the first day of the one of the said months next following, or as

they shall come after the work is completed and is entered of record by the city, the purpose being to require the payments regularly until the entire amount is paid. *Provided, however,* that the abutting landowner so liable for any of the costs of such paving shall have the right at any time, after the same is certified as aforesaid to the sergeant for collection, to anticipate and discount the payment of either installment, allowing five per cent. per annum discount for any such anticipated payments, computed at the day of payment to the day fixed for the payment thereof. To each of said installments of assessments remaining unpaid in the sergeant's hands at the time specified for such payment, a penalty of five per cent, together with six per cent per annum until paid, shall be added and the payment thereof enforced in all respects as hereinbefore provided for the collection of any other taxes due the city, and such shall be a lien upon the property liable therefor, the same as for other taxes, and the lien may be enforced in the same manner as provided for other taxes. The liens hereinbefore provided for shall have priority over all other liens, except those due the state and county for taxes, and shall be on a parity with other taxes and assessments due the city. Upon the payment of any assessment to the sergeant, he shall deliver to the party paying the same a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens. Should such assessment not be in the hands of the sergeant, if the same shall have been shown to the satisfaction of the council to have been paid in full to any officer entitled to receive the same as designated by it, the council may direct the sergeant to execute a release of such lien, which release may in like manner be recorded.

ARTICLE XXVII.

Sewers.

Sec. 48. Whenever the council shall order the construction of any public sewer in said city the owners of the property abutting upon any street, in which said sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the city engineer shall report to the council in writing the total cost of such sewerage, with a description of the lots and land, as to the location, frontage, depth and ownership, liable for such sewerage assessment, so far as the same may be ascertained, together with the amounts chargeable against each lot and owner, estimated on the basis of one dollar and twenty-five cents a 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 the rate of one dollar and fifty cents per front footage; and thereupon said council shall give notice by publication as is required in the 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 the council, as are prescribed with reference to paving, which report shall, in like manner, be examined by the council and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the costs of such sewer, it shall enter an order upon its records setting forth such location, depth, ownership, and said amount of said sewer assessment against each property respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein, against such respective owners and lots. If after such advertisement, notice and hearing said council shall find that such apportionment at such rate is unjust or inequitable, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, fairly and equitably and in like manner assess and enter the amounts so fixed, respectively, upon its records, and the council shall in either event thereupon certify the same to the sergeant for collection, and certify a copy of such order to the clerk of the county court of Mineral county, who shall record the same in the proper deed book and index the same in the name of the owner of any such lot so charged with such assessment. Such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against said several landowners shall be paid by the parties liable therefor to the said sergeant at the time, in the manner and with the attendant penalties and interest, for failure to pay promptly at the time prescribed. in all respects as hereinbefore provided in the case of assessment for paving of streets and alleys in a permanent manner; and the parties liable therefor in the same manner and to the same extent shall have the right and be entitled to anticipate any or all of such installments and to receive the same discount thereon as in such case provided. The owner or owners of any lot abutting upon any street or alley in said city, on which a public sewer is or

may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, not otherwise connected with a public sewer, may be required and compelled by the board of health to connect any such property with such sewer. Notice to so connect may be given by the board of health to the owner, lessee or occupant of such property. Each day's failure to comply with such notice and to connect with such sewer by such owner or owners, after ten days have elapsed after such notice has been given, shall be a misdemeanor and a separate offense and new offense under this section, and each offense shall be punishable by a fine of not less than five nor more than twenty-five dollars. Jurisdiction to hear, try and determine and sentence for violation of this section is vested in the police court of said city. If said owner or owners fail to comply with the notice to make such sewer connection, then the council may by ordinance order the work to be done at the expense of the city and the cost thereof to be certified to the clerk of the county court, and the same shall constitute a lien upon said property, with the same force and effect as taxes.

Sec. 49. The liens herein and hereinbefore provided, for street paving and sewerage assessments, shall constitute liens upon the real estate upon which they are assessed, as against creditors of the owners thereof or purchasers for value from, and without actual notice of such 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 for Mineral county.

Sec. 50. When the whole or any portion of the improvements authorized by this act pass through or by a market space, park, cemetery, structure for the fire department, water works, school building, infirmary, market house, work house, hospital, house of refuge, bridge, gas works, public prison, court house, church, or any other public structure, or public ground within said city, and belonging to said city, or to the county, state, or any church, association or eleemosynary institution, the council may authorize the assessment to be certified to the clerk of the county court of Mineral county and the same shall thereupon be recorded by said clerk in the proper deed book and shall thereupon become a lien against said property and collectable as other assessments are collected against individuals under this act. It shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make the proper arrangements for meeting such assessments, when due and payable.

Sec. 51. The city of Piedmont, by ordinance of the council, may borrow money in an amount equal to the amount of said liens herein acquired, for the purpose of paying any contract for paving or sewerage under this act, and may assign said liens as security for such loan or loans; but in no event shall the money so borrowed be expended for any other purpose than in the payment of the indebtedness owing by the city for such work; that is, liens for street paving can only be used by the city in borrowing money to pay for street paving, and liens for sewerage can only be used by the city in borrowing money to pay for sewers.

ARTICLE XXIX.

Bonded Indebtedness.

Sec. 52. The council of said city shall have the right to bond the said city for the purpose of paving the streets and alleys of said city and for constructing waterworks or repairing the same, and for constructing a sewerage system or repairing the same, and for the purpose of providing hose and other appliances for extinguishing fire, and for any and all public improvements whenever the council thereof shall deem such 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 time on any such indebtedness; but the aggregate indebtedness of said city shall for all purposes not exceed five per centum on the assessed valuation of the taxable property therein, based on the valuation of the last assessment next preceding the date of the incurring of such indebtedness; and the said council shall by taxation provide a fund for the payment of the interest on any and all indebtedness incurred in the manner aforesaid within the period of thirty-four years. Such bonds shall not be sold for less than par nor exchanged for the evidence of indebtedness of said city except dollar for dollar. A record of all the proceedings had hereunder shall be kept by the council.

ARTICLE XXX.

Buildings for City Use, Etc.

Sec. 53. The council shall have the authority to erect, buy, sell and lease all buildings necessary to the use of the city government, or any of its departments, and to provide for and regulate the same; to establish and maintain public hospitals and receive donations, gifts or bequests for the same, in trust or otherwise.

ARTICLE XXXI.

Health.

Sec. 54. The council shall have the authority to ordain and enforce such regulations within said city as shall be necessary or proper to preserve the health of the inhabitants of said city, and to secure them from disease; to require and compel the abatement of and removal of all nuisances within said city at the expense of the person or persons causing the same, or of the owner or owners of the ground whereon the same shall be; to prevent or regulate slaughter houses within said city; or the exercise of any unhealthy or offensive business, trade or employment therein; to prevent the keeping of any stale meats, fish, vegetables or other matter, or depositing the same, or dirt, rubbish or offal, upon any lot, street, alley or square within said city or upon the banks of any streams within the limits thereof.

Sec. 55. The council shall have the power by ordinance to regulate the sale of cocaine, morphine, opium and poisonous drugs within said city, and to prescribe punishment, including fine and imprisonment, for the violation of any such ordinance, and to provide that one or more convictions for violating the same shall operate as a revocation of the license of any druggist or pharmacist holding a license under said city.

Sec. 56. The council shall, in the month of June, one thousand nine hundred and fourteen, and in said month of every year thereafter, appoint a suitable person, who shall be a practicing physician, as health commissioner, whose term of office shall be for one year and until his successor is appointed and qualified. The members of the council, mayor and health commissioner shall comprise the board of health of said city. The board of health shall have the power to abate all nuisances within said city, and it shall do and perform all such other duties and exercise such other powers as may be required of or conferred upon them by legal ordinances of said city. The council of said city shall provide by ordinances the way and method of trying and abating such nuisances, and shall prescribe all penalties that may be proper and necessary for such purpose. The board of health shall have the power to summon witnesses, hear testimony and to do any and all other things necessary and proper in the performance of such duties under this act and under the general laws of the state, in such cases made and provided.

ARTICLE XXXII.

Police Department.

Sec. 57. The mayor shall nominate a chief of police and such number of policemen as may be authorized by ordinance, from time to time, said nomination to be subject to confirmation by the council. Council shall prescribe by ordinance such mental and physical examinations for applicants for appointment to the police force as it shall deem proper. Policemen, when nominated and confirmed by the council, shall hold office during the will of the council. The term of chief of police shall be for one year. No person shall serve or exercise any of the duties of a police officer until he shall have been confirmed as such by the affirmative vote of a majority of all the members elected to the council, unless he has been appointed a special officer as hereinbefore provided for. Policemen may be removed and discharged at any time by the mayor for good cause, in which event he shall report such suspension, together with the reason therefor, to the council at its next meeting. The council shall consider such suspension and may veto such suspension and reinstate such policeman, or confirm the suspension for such period as they may fix. *Provided*, that the council shall have the power to suspend without pay the chief of police or any policeman against whom charges are preferred. If the chief of police or any police officer shall engage in any primary election, convention, or election in which any officer in this city, county or state is to be nominated or elected, in such a way as to become offensive or obnoxious to any class of law abiding citizens, he shall be immediately suspended by the mayor, and charges preferred and a trial had before the council, and upon a three-fifths vote of all the members he may be discharged. Any officer so dismissed shall not be eligible to re-appointment as a police officer.

ARTICLE XXXIII.

Fire Department.

Sec. 58. The fire department shall be under the supervision and subject to rules and regulations prescribed by the council.

ARTICLE XXXIV.

Concerning Bribes.

Sec. 59. No person, firm or corporation shall give or offer to give to any city officer, employe or agent, nor shall any city officer, em-

ploye or agent be permitted to accept, receive or solicit from any person, firm or corporation, any free pass or free transportation, or free gift of the same, for himself or any other person, on any railroad, street car or traction line, or any gift of water, light or heat, or any badge, ring or watch or other thing of value, from any person, firm or corporation having any franchise or contract from, under or with said city, or from any other officer, agent or employe of said city, or from any other person whatsoever, who may in any way or manner be affected by the performance or non-performance of any official duty or obligation by such officer, employe or agent of said city, and the acceptance or solicitation of anything herein forbidden shall be absolute ground of removal or dismissal from office by the council, in the case of an elective office, and by the appointing power in case of an appointive office.

The circuit court of Mineral county, upon petition of ten voters of said city, shall have like power of removal of all officers, employes and agents as given in this act to any city officer, in any way or manner.

ARTICLE XXXV.

Sec. 60. All officers, agents and employes of the city of Piedmont shall remain in and hold their offices and discharge the duties thereof until the first day of June, one thousand nine hundred and fourteen, and thereafter until their successors are qualified; and all existing officers not provided for by this act shall be abolished as of the first day of June, one thousand nine hundred and fourteen, except this section shall not apply to hold-over councilmen, or councilmen elected on the second Monday of May, one thousand nine hundred and fourteen, who shall hold office until their successors are elected or appointed and qualified as provided in this act.

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

Sec. 61. All acts in conflict or inconsistent with this act are to the extent of any such conflict hereby repealed.

(House Bill No. 106.)

CHAPTER 79.

AN ACT to amend, revise and consolidate into one act chapter fifty-four of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-nine, relating to the charter of the town of Grafton, as amended by chapter sixty-five of the acts of one thousand nine hundred and three, and all other acts of the legislature of West Virginia, which form a part of the charter of the city of Grafton, and repealing all acts and parts of acts inconsistent or in conflict herewith.

(Passed February 14, 1913. In effect from passage. Approved by the Governor February 18, 1913.)

Sec.	Sec.
1. The city of Grafton; a body politic; rights, privileges and powers.	14. No officer shall receive pass, frank, free ticket or service, except.
2. Corporate limits.	15. Civil service board, its duty.
3. General and special laws, etc., in force.	16. Printed itemized statement quarterly.
4. Time of election; mayor and two commissioners; in case of vacancy; term.	17. May revise and make additional appropriations, when.
5. Candidates shall be nominated by primary election; person desiring to be a candidate must; how primary shall be held; form of ballot, etc.	18. Rules to be observed in the construction of this act.
6. City shall be governed by council; quorum; proceedings.	19. Right to levy and collect taxes; other powers defined.
7. Powers of council.	20. May cause streets and alleys to be paved; how to be paid; lien.
8. Mayor shall be superintendent of department and commissioner of other departments; officers elected by commission.	21. May levy annual tax for specific purposes.
9. Commission to request banks to offer interest, etc.; select depository.	22. Elective officers may be removed by voters; (recall) election defined.
10. Powers to create, fill and discontinue offices.	23. Ordinance may be submitted to commission by petition; an election shall be called if.
11. Mayor and commissioners shall have office in city; salary.	24. When ordinances go into effect, except.
12. Regular meetings of commission; mayor to preside.	25. Petitions to be signed only by legal voters.
13. Orders or ordinances appropriating money, etc.; franchise.	26. How to fill two vacancies.
	27. This act shall be submitted to the voters of the city for ratification.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the inhabitants of so much of the county of Taylor as is within the boundaries 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 and style of "the city of Grafton", and as such, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and make purchase, take, receive, hold and use

goods and chattels, lands and tenements and choses in action or any interest, right or estate therein, either for the proper use of said city, or in trust for the benefit of any person or corporation therein; and the same may grant, sell, convey, transfer, let and assign, pledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for a private individual so to do, subject to the limitations and provisions of the constitution of the state; and may have and use a common seal, and alter and remove the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to like corporations in this state, and shall have and succeed to all powers, franchises and immunities, rights and privileges, which were conferred upon or belonged or appertained to said city of Grafton, by virtue of any act or acts of the legislature of this state heretofore passed; and shall have all the rights, privileges, capacities and powers provided by chapter forty-seven of the code of West Virginia, as contained in the edition of the year one thousand nine hundred and six, and for which provision is not herein otherwise expressly made.

Sec. 2. The corporate limits of said city shall hereafter be as follows: Beginning at the southeast corner of Roger's mill; thence in a southerly direction to the eastern pier of the boom; thence crossing the Valley river to a point of the west bank thereof, where the boundary line of the former town of West Grafton intersected said river, at a point near said boom; thence with the former boundary line of the western portion of Grafton, formerly West Grafton, to a spring in Warder's field; thence a straight line to the county road at the southwestern corner of Cobb's lot; thence with the county road to Amon Martin's line, corner of Beaumont addition to the corner of Judkin's land; thence a straight line southwesterly to three service bushes, corner to McWilliams; thence a straight line to Bartlett creek, where the branch railroad built to the box factory crosses said creek; thence with the meanderings of said creek to the western line of the Atlantic Refining Company's tank property; thence in a straight line to a chestnut on the ridge in Willhide's field; thence a straight line to the Tygarts Valley river near three linns, corner to St. Clair and Yates; thence with the last mentioned line extending to a point on the opposite side of said Tygarts Valley river; thence with the meanderings of said river, following low water on the eastern side thereof, to a willow on the river edge, corner of the former corporation of Fetterman, below

the old Hoffman mill dam; thence following the northerly boundaries of the former corporation of Fetterman to the big spring on the northwestern turnpike; thence in a straight line to the intersection of the county road and said turnpike, near the old Knotts residence; thence with the southern meanderings of said turnpike to the intersection with the Grafton road near the dwelling of the late John W. Blue; thence in a southerly direction to the railroad bridge at the cut-off; thence with the north bank of Three Fork creek to the beginning.

Sec. 3. All general and special laws of the state of West Virginia, governing cities and now applicable and not inconsistent with the provisions of this act, shall apply to and govern the city of Grafton. All by-laws, ordinances and resolutions lawfully passed and in force in the city of Grafton under its former organization, and not inconsistent herewith, shall remain in force until altered or repealed by the commission elected under the provisions of this act. All rights and property heretofore vested in said city are continued and preserved, and no right or liability, either in favor or against it, existing at the time, and no suit or prosecution of any kind, shall be affected by any such change, unless otherwise provided for in this act.

Sec. 4. For said city there shall be elected at the regular triennial municipal election, a mayor and two commissioners. The first regular election under this act shall be held on the Tuesday after the third Monday in March, one thousand nine hundred and fourteen, and on the same day in every third year thereafter.

If any vacancy occur in any such office, the remaining members of said commission shall appoint a person to fill such vacancy during the balance of the unexpired term.

Said officers shall be nominated and elected at large. Said officers shall qualify, and their terms of office shall be three years and until their successors are elected and qualified, and shall begin on the second Monday after the election. The terms of office of the mayor and councilmen in such city in office at the beginning of the terms of office of the mayor and commissioners first elected under the provisions of this act shall then cease and determine, and the terms of office of all other elective or appointive officers in force in such city, except as hereinafter provided, shall cease and determine as soon as the commission shall by resolution declare.

Sec. 5. Candidates to be voted for at all general municipal elec-

tions at which a mayor and two commissioners are to be elected under the provisions of this act shall be nominated by a primary election, and no other names shall be printed upon the general ballot, except those selected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Tuesday preceding the general municipal election. The judges of election shall be appointed by the commission for the general municipal election, and such judges shall be the judges of the primary election, and it shall be held at the same place, so far as possible, and the polls shall be opened and closed at the same hours. The council, as constituted at the passage of this act, shall appoint the judges for the first primary and general elections to be held hereunder.

Any person desiring to become a candidate for mayor or commissioner shall, at least ten days prior to said primary election, file with the city clerk a statement of such candidacy, in substantially the following form :

State of West Virginia, county of Taylor, ss :

I,, being first duly sworn, say that I reside at street, city of Grafton, county of Taylor, state of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or commissioner) to be voted upon at the primary election to be held on the Tuesday of, 19...., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

Signed.....

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

Signed.....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form :

Petition Accompanying Nominating Statement.

The undersigned, duly qualified electors of the city of Grafton, and residing at the places set opposite our respective names hereon, do hereby request that the name of (name of candidate) be placed

on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the Tuesday of, 19..... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified in our judgment, for the duties of such office.

Names of Qualified Electors. Number Street.

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city clerk shall cause to be published for three successive days in all the daily papers and one time in each weekly paper published in the city, in proper form, the names of the persons as they are to appear upon the primary ballot; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed with a square at the left of each name and immediately below, the words "vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names for commissioners, with a square at the left of each name, and below the names of such candidates shall appear the words "vote for two." The ballots shall be printed upon plain, substantial white paper, and shall be headed:

"Candidates for Nomination for Mayor and Commissioners of the City of Grafton, at the Primary Election:" but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(Place a cross in the square preceding the names of the parties you favor as candidates for the respective offices.)

OFFICIAL PRIMARY BALLOT.

Candidates for Nomination for Mayor and Commissioners of the City of Grafton at the Primary Election.

For Mayor

[] (Name of candidate)
(Vote for one)

For Commissioners.

[] (Names of candidates)
(Vote for two)

Official ballot, attest:

Signature.....City Clerk.

Having caused said ballot to be printed, the said city clerk shall

cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at the primary election and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. Judges of election shall immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk within six hours of the closing of the polls. On the day following the said primary election the said clerk and other commissioners shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said city at least once, the result thereof. Said canvass by the city clerk and other commissioners shall be publicly made. The two candidates receiving the highest number of votes for mayor shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for mayor at the next succeeding municipal election; and the four candidates receiving the highest number of votes for commissioners, or all such candidates if less than four, shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for commissioners at such municipal election. In the event of the death or resignation of a nominee before the election, the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

The ballot of such general municipal election shall be in the same general form as for such primary election, so far as applicable, and in all elections in such city the election precincts, voting places, manner of conducting the election and announcing of results, shall be the same as by law provided for election of officers in said city, so far as the same are applicable to and not inconsistent with the provisions of this act. The expenses attending the holding of said primary and all other elections shall be borne by said city.

Sec. 6. Said city shall be governed by a council, consisting of the mayor and two commissioners chosen as provided in this act, each of whom shall have the right to vote on all questions coming before the commission. Two members of the commission shall con-

stitute a quorum, and the affirmative vote of two members shall be necessary to adopt any motion, resolution or ordinance, or pass any measure. Upon every vote the yeas and nays shall be called and recorded, and every motion, resolution or ordinance shall be reduced to writing and read before the vote is taken thereon. The mayor shall preside at all meetings of the commission; he shall have no power to veto any measure, but every resolution or ordinance passed by the commission must be signed by the mayor, or by two commissioners, and be recorded before the same shall be in force.

Sec. 7. The commission shall have and possess, and the commission and its members shall exercise all executive, legislative and judicial powers conferred upon the cities, towns and villages by the general law of the state and by this act.

The executive and administrative powers, authority and duties in said city shall be distributed into and among three departments as follows:

1. Department of public affairs, police, fire, safety and health.
2. Department of streets, parks, public improvements, water works, sewers and public utilities.
3. Department of finance and revenue.

The council shall determine the powers and duties to be performed by, and assign them to the appropriate department; shall prescribe the powers and duties of officers and employes; may assign particular officers and employes to one or more of the departments; may require an officer or employe to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

Sec. 8. The mayor shall be superintendent of the department of public affairs, public safety, police, fire and health, and the commission shall, at the first regular meeting after election of its members, designate by majority vote, one commissioner to be superintendent of the department of accounts and finance and who shall act as city clerk, and one commissioner to be superintendent of the department of streets, parks, public improvements, public property, water works, sewers and public utilities; but such designation shall be changed whenever it appears that the public service would be benefited thereby.

The commission may, at said first meeting, or as soon as practicable thereafter, elect by majority vote, the following officers: A solicitor, city civil engineer, city physician, police judge, chief of

police, chief of fire department, city collector, street commissioner, and such other officers and assistants as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city. Any officer, assistant or employe elected, appointed, or employed may be removed at any time by a vote of a majority of the members of the commission, under such regulations as the commission may prescribe.

Sec. 9. The commission shall at said first meeting, or as soon thereafter as may be, and annually thereafter, by resolution request all of the banks of said city to respectively offer a rate of interest to be paid said city for and upon such money as may be deposited with it by said city for the then ensuing year, and upon the incoming of said offers the commission shall cause the same to be spread upon the record of their proceedings, and the bank or banks offering the highest rate of interest shall thereupon be designated as the depository or depositories for the term of one year for all money accruing to said city from all sources; *provided, however,* that no money shall be deposited with the bank or banks so designated until such bank or banks shall have given a bond, with security to be approved by the commission, in a sum to be fixed by the commission, and conditioned that said bank shall account for and pay over all money received by it for the account of said city. If two or more banks offer an equal rate of interest and such rate is the highest offered, the money shall be deposited in said banks in equal proportions, or as near so as practicable. The city collector shall forthwith deposit in said bank or banks all moneys that may come into his hands, and the money so deposited shall be disbursed only upon orders drawn by the mayor and countersigned by the clerk.

Sec. 10. The commission shall have power from time to time to create, fill and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city, and may by resolution or otherwise, prescribe, limit or change the compensation of such officers or employes.

Sec. 11. The mayor and commissioner shall have an office or offices within the city and their total compensation shall be as follows: The annual salary of the mayor shall be one thousand five hundred dollars, and the salary of each commissioner shall be one thousand two hundred dollars. Such salaries shall be payable in equal monthly installments.

Every other officer or assistant shall receive such salary or com-

pensation as the commission shall by ordinance provide, payable in equal monthly installments.

The salary or compensation of all other employes of said city shall be fixed by the commission, and shall be payable monthly or at such shorter periods as the commission may determine.

Sec. 12. Regular meetings of the commission shall be held on the second Monday after the election of the commissioners, and thereafter at least twice each month. The commission shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two commissioners. All meetings of the commission, whether regular or special, and to which any person not a city officer is admitted, shall be open to the public.

The mayor shall be president of the commission, and preside at its meetings, and shall supervise all departments and report to the commissioner for its action in all matters requiring attention in any department. The superintendent of the department of streets and public utilities shall be vice president of the commission, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of the mayor.

Sec. 13. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges, or public places in said city, shall be granted, renewed or extended, except by ordinance. No franchise shall be granted for a period exceeding thirty years, nor until notice of the application for the same shall have been published in a city newspaper, or posted at the front door of the mayor's office for thirty days prior to the final passage of such franchise, and no amendment or addition thereto shall extend beyond the termination of the original franchise.

Sec. 14. No officer or employe of said city shall accept or receive, directly or indirectly, from any person, firm or corporation operating within the terminal limits of said city, any interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line or exchange, or other business using or operating under a public franchise, any frank, free

pass, free ticket or free service or accept or receive, directly or indirectly, from any such person, firm or corporation, any other service or other gratuity upon terms more favorable than is granted to the public generally. Any violations of the provisions of this section shall be a misdemeanor, and every such compact or agreement shall be void, and the penalty for a violation of this section shall be a fine of not less than twenty dollars and forfeiture of office. Such prohibition of free transportation shall not apply to policemen or firemen in uniform; nor shall any free service to city officials heretofore provided by any franchise or ordinance be affected by this section.

Sec. 15. The commission shall create, by appointment, a civil service board, consisting of three residents of the city, whose duty it shall be to examine all applicants for position in the department of police, fire and water works and such other departments as may be ordained, including the chiefs of such departments, and shall define the terms and prescribe the duties of the members of said board. All appointments to said departments shall be made from applicants recommended by said board, and when appointed shall be removed only for cause.

Sec. 16. The commission shall each quarter print a pamphlet from a detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding quarter, and furnish printed copies thereof to the newspapers of the city, and to persons who shall apply therefor at the office of the city clerk. At the end of each year the commission shall cause a full and complete examination of all the books and accounts of the city to be made by competent accountants, and shall publish the result of such examination in the manner above provided for publication of quarterly expenditures.

Sec. 17. If, at the beginning of the term of office of the first commission elected in said city under the provisions of this act, the appropriations for the expenditures of the city government for the current fiscal year have been made, said commission shall have power, by ordinance, to revise, repeal or change said appropriations, and to make additional appropriations.

Sec. 18. In the construction of this act, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent, or repugnant to the context:

1. The words "councilman" and "commissioner" shall be construed to mean "councilman" when applied to said city.

2. The words "council" and "commission" shall be construed to mean "council" when applied to said city.

3. When an officer or officers are named in any law referred to in this act, it shall, when applied to said city, be construed to mean the officer or officers having the same function or duties under the provisions of this act, or under ordinances passed under authority thereof.

4. The word "franchise" shall include every special privilege in the streets, highways, and public places of the city, whether granted by the state or the city, which does not belong to the citizens generally by common right.

5. The word "electors" shall be construed to mean persons qualified to vote for elective officers at regular municipal elections.

Sec. 19. The commission shall have the right to levy and collect taxes and grant licenses; *provided, however*, that the sense of the voters of said city shall be taken biennially regarding the granting of licenses to sell intoxicating drinks, and unless a majority of the votes cast for and against the same be in favor of such license, the council shall not grant the same, but in the event a majority of the votes for and against the same be cast in favor of said license, the commission shall grant such license; and, *provided, further*, that the granting of such license shall not be repugnant to the constitution and laws of the United States or of this state.

To lay off, open, close, vacate, or maintain public grounds, parks and public places, in or near the said city, and to guard and police the same; to prohibit or regulate within the municipality or within two miles of its corporate limits or within two miles of any cemetery, public park or place, the erection or maintenance of any slaughter house, soap factory, glue factory, tannery, or other house, shop or factory of like kind or character; to cause to be filled up, raised or drained, by or at the expense of the owner, any town lot or tract of land covered or subject to be covered by stagnant water; to prevent the desecration of the Sabbath day; to regulate the running and speed of engines and cars within said city; to regulate the sale of all foods and drink products, milk and fresh meats, fish and vegetables, and provide for inspection of same; to establish, regulate and maintain baths, bathing houses, drinking fountains, public toilet stations, and free public band concerts, and to regulate the time and place of bathing in pools and streams and public waters, within the police jurisdiction of the city; to prevent gambling and keeping of gambling

places; to regulate the running of steam and electric cars and automobiles over and across any streets or alleys, and to require any railroad company or street car company to provide watchmen, gates, or both watchmen and gates for any crossing; to regulate or prohibit the ringing of bells, blowing of steam whistles, the use of hand organs and all musical instruments of any annoying character; to regulate or prohibit the distribution of hand bills, circulars, and other advertisements on the streets, roads, alleys, public places and parks, and in private yards, buildings or other structures; to acquire, hold, maintain, control, or dispose of a hospital or a public library, or any property for eleemosynary purposes or any interest therein.

Sec. 20. The commission of the city may cause any street or alley to be paved, between the sidewalks, with cobble stone, brick or other suitable material, and a sewer to be constructed therein from one of said cross streets or alleys to another, or to have such paving done without the construction of a sewer constructed without such paving, under such regulations as shall be fixed by ordinance, upon the lowest and best terms to be obtained by advertisements for bids, or proposals therefor by the commission as herein provided; and two-thirds of the cost of such paving shall be assessed to the owners of the lots or fractional parts of lots abutting or abounding on that part of the street or alley so paved in proportion to the distance of the frontage owned by each; *provided*, that in paying the cost of paving any street upon which there is constructed any street car, interurban or railway line, the city shall pay one-third of such cost after first deducting the amount paid by the street car, interurban or railway company, and the residue shall be paid by the abutting property owners as above provided. The one-fourth of such two-thirds shall be paid within thirty days after the completion and acceptance of the work, and the remainder in three equal installments, payable respectively at such times as the commission may by ordinance fix at the time of letting the contracts for such work. The other one-third of the cost of said paving shall be borne by the city. The intersection of streets, or of a street and alley, paved or provided with sewer under this section shall be correspondingly paved or sewered at the sole expense of the city.

The sum or sums of money thus assessed for paving shall be a lien on the lots or fractional parts of lots upon which they are assessed, which lien may be enforced by a suit in equity in the name of the city in any court having jurisdiction thereof, and the

same or any installment thereof may be collected by a suit at law before any court or any justice of the peace having jurisdiction thereof.

Immediately upon the completion and acceptance of any paving constructed by virtue of this section, the commission shall direct the clerk to cause to be published a notice, which shall name and describe the location of the street or alley upon which said paving shall have been constructed; giving the names of the owners of each lot abutting or abounding upon such street or alley, if known, and if the name or names of the owner or owners of any lot or fractional part of a lot are unknown, such lot shall be described with reasonable certainty in order that the same may be identified. The number of feet that each lot or fractional part of a lot abuts shall be stated, also the amount assessed against each lot or fractional part of a lot. Said notice shall cite all owners of lots or fractional parts of lots, abutting upon the streets or alleys aforesaid to appear before the commission of said city at a regular meeting thereof, within thirty days from the first publication thereof, and show cause, if any they can, why the assessment aforesaid should not become final, which notice shall be published once a week for two successive weeks, in one or more newspapers of general circulation, published in said city. The commission shall, upon the request of any one or more of the owners of said lot or fractional parts of lot appoint a day to hear the grievances of said owner or owners and may alter or amend any assessment made against any one or more of said owner or owners for good cause to be shown. The clerk shall give notice to all persons claiming to be injured by said assessment, of the time and place of holding said meeting, which meeting shall be held within ten days after the expiration of thirty days mentioned in said notice. The commission may adjourn the hearing from time to time. In case any owner or owners of abutting property fail to complain of any grievance or injury they may have suffered by reason of the assessment aforesaid, and shall fail to appear for the purpose of having the same corrected, the assessment as laid shall be final. The findings of said commission shall be conclusive. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

But the lien upon any real estate created by virtue of this section shall be void as to any purchasers of any such real estate, for value and without notice, who shall have purchased such real estate at any time after a period of twelve months has elapsed after the paving

has been accepted by the city, unless an abstract of such assessment, giving the location of the real estate affected, the name of the owner and the date and the amount of the assessment shall have been first recorded in the office of the clerk of the county court of Taylor county, in the judgment lien docket.

And it is hereby made the duty of said county clerk to record said abstracts; for the recordation of each of which said clerk shall receive a fee of twenty-five cents to be paid by the city.

Sec. 21. The commission shall have authority to levy and collect annual tax, for the purpose hereinafter specified, on the personal property and real estate in said city, subject to taxation by said city, not to exceed in any one year ten cents on every hundred dollars of the assessed value thereof and the money so collected shall be used for the purpose of paying its proportion of the cost of paving or re-paving streets and alleys and for constructing sewers in said city, in accordance with the provisions of section twenty of this act; and such money shall in no case be used to pay for repairs of streets or alleys or sewers, or for any other purpose than for paving or for sewers. *Provided*, that the total levy for all purposes shall not exceed the total levy authorized by law.

Sec. 22. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent of an elective office as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed shall be filed with the city clerk, which petition shall contain a general statement of the grounds on which the removal is sought. The signatures to the petitions need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition, the city clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the commission shall al-

low him extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the commission without delay. If the petition shall be found to be sufficient, the commission shall order and fix a date for holding said election, not less than thirty days nor more than forty days, from the date of the clerk's certificate to the commission that a sufficient petition is filed.

The commission shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the clerk at least ten days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election, equal in number to at least ten per centum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in section five of this act, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition, and stating therein that such person is a candidate for election instead of nomination.

The ballot for such special election shall be in substantially the following form :

OFFICIAL BALLOT.

Special election for the balance of the unexpired term of
as

For

(Vote for one only)

(Names of commissioners)

[].....
 [].....

Name of present incumbent.

Official ballot, attest:

Signature

City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who received the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and in addition to the methods heretofore provided by law.

Sec. 23. Any proposed ordinance may be submitted to the commission by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petition under section twenty-two hereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the commission, such commission shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition; or,

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the commission shall call a special election, unless the general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But

if the petition is signed by not less than ten per centum of the electors, as above defined, then the commission shall within twenty days pass said ordinance without change, or submit the same at the next general election occurring not more than ninety days nor less than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballot used when voting upon said ordinance shall contain these words "for the ordinance," and "against the ordinance," (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section, but there shall not be more than one special election in any period of six months for such purpose.

The commission may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the daily or weekly newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Sec. 24. No ordinance passed by the commission, except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before ten days (and if the same be an ordinance granting a franchise, it shall not go into effect before thirty days) from the time of its final passage, and not then unless such ordinance shall have been posted at the front door of the mayor's office for five days prior to the expiration of said ten days, and if the same be an ordinance granting a franchise it shall not go into effect at the expiration of said thirty days, unless within five days from the time of its final passage the same shall have been pub-

lished in full in some newspaper published and generally circulated in said city. And if during said ten days, if it be an ordinance other than one granting a franchise, and if during said thirty days, if it be an ordinance granting a franchise, a petition signed by the electors of the city, equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance or franchise, be presented to the commission, the said ordinance or franchise shall thereupon be suspended from going into operation, and it shall be the duty of the commission to reconsider such ordinance or franchise, and if the same is not entirely repealed, the commission shall submit the ordinance, or franchise as is provided by sub-section (b) of section twenty-three of this act, to the vote of the electors of the city either at the general election or at a special municipal election to be called for that purpose, and such ordinance or franchise shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section twenty-three, except as to the percentage of signers and be examined and certified to by the clerk in all respects as therein provided.

Sec. 25. Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

Sec. 26. In case that the offices of two of the commissioners should be vacant at the same time, for any cause, the remaining member of the commission shall forthwith call a special election to fill the vacancies for the unexpired term, and he shall perform all duties incident to such election and devolving upon the commission and its several members. Should all members of the commission resign or their offices become vacant, in any manner, the civil service board mentioned in section fifteen shall forthwith call a special election to fill such vacancies for the unexpired term, and said board shall be fully authorized and empowered to perform the duties of

the commission until the installation of the officers elected at such special election.

Sec. 27. The question of the ratification or rejection of this act shall be submitted to the voters of said city at the next regular city election, to be held in the year one thousand nine hundred and thirteen. This act shall be published in full once a week for three successive weeks immediately preceding said election in all the newspapers published in said city, and if a majority of the votes cast at said election upon said question be for the ratification of this act, this act so ratified shall be in full force and effect on and after the tenth day of February, one thousand nine hundred and fourteen, as the charter of and for the said city of Grafton.

(House Bill No. 115.)

CHAPTER 80.

AN ACT to amend and re-enact sections two and three, of chapter six of the acts of the legislature of West Virginia, passed January twenty-second, one thousand nine hundred and nine, constituting the charter of the city of Martinsburg, as amended by chapter eighty of the acts of the legislature of West Virginia, passed February second, one thousand nine hundred and eleven, and to change the corporate limits of said city by excluding certain territory now embraced therein; also to amend and re-enact section fifty-eight of said chapter six, of the acts of the legislature of West Virginia, passed January twenty-second, one thousand nine hundred and nine, constituting the charter of the said city of Martinsburg, authorizing said city to increase its present indebtedness for the purpose of grading, paving and sewerage, and to issue its notes and bonds therefor, not exceeding in the aggregate, for all purposes, five per centum on the taxable value of the property therein.

(Passed February 15, 1913. In effect from passage. Approved by the Governor February 18, 1913.)

Sec.
2. Boundaries.
3. Boundaries of wards.

Sec.
58. City may borrow money and acquire liens acquired for paving and sewers.

Be it enacted by the Legislature of West Virginia:

That sections two and three of chapter six of the acts of the legislature of West Virginia of one thousand nine hundred and nine, as amended by chapter eighty of the acts of the legislature of West Virginia of one thousand nine hundred and eleven; and section fifty-eight of said chapter six of the acts of the legislature of one thousand nine hundred and nine, be and they are hereby amended and re-enacted so as to read as follows:

Sec. 2. The corporate limits of the city of Martinsburg shall be as follows, to-wit: Beginning at a point on the north side of the Berkeley and Hampshire grade road, 115 feet west of the southwest corner of the toll gate house and 1.4 feet to the south of the C. J. Faulkner fence line (A); thence $52^{\circ} 15'$ E. 3,515 feet to the south side of the city right-of-way for main supply pipe to water station; thence along south side of said right-of-way, parallel and at a distance of 12 feet from the north side of same, north $67^{\circ} 50'$ W. 340 feet; north 34° W. 900 feet; north $40^{\circ} 45'$ W. 800 feet; north $66^{\circ} 30'$ W. 800 feet; north 83° W. 260 feet; south $74^{\circ} 30'$ W. 640 feet; south $86^{\circ} 15'$ W. 43 feet to the east side of Dry Run pike; thence leaving the pipe line right-of-way and running along the east side of Dry Run pike, south 1° E. 61 feet to a point at the north side of the bridge over Tuscarora creek; thence crossing the pike and running the lines of what is known as "Kilmer's Grove," or which land the corporation of Martinsburg purchased of John D. Kilmer, south 81° W. 27 x 178.2 feet to a stake in Tuscarora creek; north 82° W. 343.2 feet to a stake in the mouth of the mill race waste; north $86^{\circ} 30'$ W. 79.2 feet; north 71° W. 99 feet; west 107.2 feet to a large sycamore on the west side of the spring drain from B. S. Kilmer spring; north $71^{\circ} 30'$ west passing over a corner stone of C. J. Faulkner and B. S. Kilmer farm at 173.2 feet, and containing in all 470.2 feet, to a large sycamore tree; north 34° W. 21.4 feet to a locust stump, an original beginning corner to lot No. 4, of the Kilmer mill property; north $89^{\circ} 30'$ W. 105.6 feet to a stone at a white mulberry bush on the southeast side of the old mill race, now the main Tuscarora creek; thence crossing the creek north $22^{\circ} 15'$ W. 99 feet to a stake, corner of the Harrison Thomas and to John Kilmer lot, and also corner to O. M. Thomas; thence with O. M. Thomas' lines north 74° E. 41.2 feet; north 15° E. 41.2 feet; north 48° E. 153.4 feet to a stake on the north side of a bridge and east side of Bender mill road, corner to the corporation of Martinsburg,

purchased of O. M. Thomas; thence along the road so as to include the Thomas purchase by corporation, 118 feet; thence east 10 feet to a gate post; thence south $20^{\circ} 45'$ E. 98 feet to a stone in the original Kilmer grove lot; thence with the same south $62^{\circ} 15'$ E. 172.8 feet to a pear tree; thence south $69^{\circ} 45'$ E. 367.9 feet; south $64^{\circ} 45'$ E. 132 feet to a stake at a stone; south $78^{\circ} 45'$ E. 33 feet to a post in the picket fence of John D. Kilmer's garden; thence south 46° W. 46.2 feet to a post at the corner of the garden; south $56^{\circ} 30'$ E. 158.4 feet to a stake (located south $9^{\circ} 30'$ E. 42.9 feet from the center of a large elm tree in the lawn south of Kilmer's residence); south 82° E. 174.9 feet; south $82^{\circ} 45'$ E. 25 feet; south 88° E. 25 feet; north 84° E. 25 feet; north 78° E. 25 feet; north $75^{\circ} 30'$ E. 148.5 feet; to a fence post on the north side of the entrance to Kilmer's grove and on the west side of the Dry Run pike; thence along the west side of the same north 1° W. 37 feet to a point at the north side of the right-of-way for pipe line; thence crossing the road and running the north side of the pipe line right-of-way parallel and at a distance of twelve feet from south side of same, north $86^{\circ} 15'$ E. 27 plus 43 feet; north $74^{\circ} 30'$ E. 640 feet; south 83° E. 260 feet; south $66^{\circ} 30'$ E. 800 feet; south $40^{\circ} 45'$ E. 800 feet; south 34° E. 900 feet; south $67^{\circ} 50'$ E. 340 feet to a stake in line No. 1; thence with line No. 1, north $52^{\circ} 15'$ E. 2,389.7 feet to a 2 x 2 oak stake at corner (B) located in Whetzel's field 1.8 feet north of right of way "Y" track connecting the Baltimore and Ohio railroad and the Cumberland Valley railroad, 42 feet measured along right of way from center of the Whetzel and Stewart stone fence line. (Line No. 1, if extended north $52^{\circ} 15'$ E. would pass through the most easterly chimney of the C. O. Lambert house on the M. and W. pike at the south of the Warm springs road); thence north 80° and $30'$ E. 1,882 feet to a spike in the floor of bridge on the M. and W. pike (C); thence south 56° E. 3,668.5 feet to a 2 x 2 oak stake in the center of the Bradshaw lane 286 feet north of the north side of the Buxton road (D); thence south $33^{\circ} 45'$ W. 1,236.5 feet to a 2 x 2 oak stake (D) in the center of Busey's lane, thence south $56^{\circ} 15'$ W. 1,668 feet to a 2 x 2 oak stake (D) in the northwest corner of the Baker property on the south side of Moler avenue; thence south $56^{\circ} 45'$ E. 4,262 feet to a 2 x 2 oak stake 59 feet northeast of a copper bolt in the center of the north coping on bridge No. 49 B. & O. R. R. (E); thence south 54° W. 5,263.6 feet to a 2 x 2 oak stake in the Alex. Parks five acre lot and north 75° E. 49.3 feet from a nail driven in

a large honey locust tree on the north side of the Charles Town road (F); thence line No. 6 along extension of southerly line of Shaffer street, crossing Winchester turnpike, Arden road and Cumberland Valley railroad, north $70^{\circ} 25' W.$ 5,254 feet to a 2 x 2 oak stake in the G. M. Bowers' field 1.7 feet west of the Cumberland Valley railroad right-of-way, and 28.4 feet from the west rail (G); thence line No. 7 north $30^{\circ} E.$ 2,387.2 feet to a stake in the Ambrose field near the slaughter house, distant 220 feet north of the south side of Rocky lane; thence north $11\frac{1}{4} W.$ 1,549.4 feet to a stake in the west line of Alabama avenue where it intersects Addition street, distant 10.8 feet north of the southwest corner; thence with the west line of Alabama avenue north $28\frac{1}{2} E.$ 1,388.7 feet to a stake in the Berkeley and Hampshire grade road, distant 16.5 feet north of the southwest corner; thence with the Berkeley and Hampshire grade road south $63\frac{1}{4} E.$ 1,053.7 feet to the point of beginning.

ARTICLE III.

Boundaries of Wards.

Sec. 3. The said city shall consist of five (5) wards, which shall be bounded as follows:

First Ward.

Beginning at the intersection of John street and Alabama avenue in the westerly line of said city limits; thence following the center of John street easterly to the middle of First street at its intersection with Porter avenue; thence southeasterly with the center line of First street to the center line of said avenue to its junction with West Stephen street; thence easterly down the center line of Stephen street to the middle of the bridge east of Water street, which crosses the Spring run, in what was formerly fair ground entrance; thence down the middle of the Spring run to the middle of Tuscarora creek; thence down the middle of Tuscarora creek easterly to its intersection with the city limits southwest of Bull Eye bridge; thence southwesterly with the city line to a point in the northerly side of the Charles Town road at the city line corner east of the Standard Lime and Stone Company's quarries; thence westerly following the city line with the extension of the southerly line of Shaffer street, crossing the Winchester turnpike near the one mile post, also crossing the Arden road beyond the toll-gates, and also crossing the Cumberland Valley railroad, to the southwesterly corner of the city limits,

and from there, northerly, along the most westerly limits of said city, to the beginning, which shall constitute the first ward.

Second Ward.

Beginning at the intersection of John street and Alabama avenue in the westerly line of said city limits; thence following the center of John street easterly to the middle of First street at its intersection with Porter avenue, and continuing easterly with the lines of First ward down the center of First street to Winchester avenue; thence to its junction with West Stephen street; thence with the center of Stephen street to the Spring run bridge on East Stephen street; thence continuing with first ward lines, down the middle of Spring run and Tuscarora creek to said city limits; thence leaving the first ward lines and running with the corporation limits, northeasterly to the center of the Baltimore and Ohio railroad on its viaduct bridge over Tuscarora creek; thence westward and northward along the curve of the center line of the Baltimore and Ohio railroad to its intersection with its center line of east Burke street; thence westerly along the center line of Burke street; thence westerly along the center line of Burke street to the west side of Valley street; thence westerly to the point in the northwesterly line of city limits which is 450 feet northerly from the Berkeley and Hampshire grade city corner; thence with said line, southerly 450 feet to said corner; thence westerly to the intersection of Alabama avenue and the Berkeley and Hampshire grade road; thence with the westerly line of Alabama avenue to the place of beginning, which shall constitute the second ward.

Third Ward.

Beginning at a point in the northwesterly city limits, 450 feet northerly from its Berkeley and Hampshire grade corner, which point is heretofore designated as a corner of the second ward; thence with the lines of second ward, easterly to the center of Burke street at west side of Valley street; thence with second ward lines easterly along center line of Burke street to its intersection with the center line of Baltimore and Ohio railroad; thence leaving second ward lines and extending northward and westward along the center line of the Baltimore and Ohio railroad right-of-way to its intersection with the northwesterly line of city limits at a point in the center of said railroad, 672 feet northerly from intersection with center line of the Cumberland Valley overhead bridge; thence along said northerly city

line in a southwesterly direction to the point west of water pumping station where pipe line right-of-way intersects the corporation line; thence northward to include a strip twelve feet wide along pipe line right-of-way to Dry Run turnpike and continuing across same to include the water works driveway, park and springs and all of the land belonging to the city of Martinsburg for water purposes; thence returning to the northwesterly city line where it intersects the pipe line, and extending again southeasterly along said city line to the beginning, which shall constitute the third ward.

Fourth Ward.

Beginning at a point in the center of Burke street and the right-of-way of the Baltimore and Ohio railroad, which is also a corner of the third ward and a corner of the second ward; thence easterly along the curve of the center of the Baltimore and Ohio railroad to the viaduct bridge over Tuscarora creek at the city limits; thence northerly along the easterly line of the city limits to a point in said line which would intersect the center line of Pennsylvania avenue extended in its present course and direction from its center now laid out at Albert street; thence westerly to the center of Pennsylvania avenue at Albert street; thence westward in the center line of Pennsylvania avenue to a point in the center of and at the junction of Pennsylvania avenue, North Queen street and Williamsport avenue; thence westerly along the middle of Williamsport avenue to the center of the Baltimore and Ohio railroad right-of-way; thence with the center line of railroad's right-of-way to the beginning at Burke street, which shall constitute the fourth ward.

Fifth Ward.

Beginning at the center of Baltimore and Ohio railroad's right-of-way and the center of Williamsport avenue, already designated as a corner of the fourth ward; thence with the lines of the fourth ward eastward along center of Williamsport avenue across North Queen street and along center of Pennsylvania avenue to Albert street and continuing eastward with fourth ward line along extended line of center of Pennsylvania avenue to city corporation limits, at a point designated as corner of fourth ward; thence leaving the line of fourth ward extending northeasterly along the most easterly side of the city limits, passing west of Ridenour's school house to the northwesterly city corner in the middle of Bradshaw's line north of Schoppert Ford road; thence westward with the northeast limits of

city along city line to stake and spike at the northwesterly corner of bridge across Williamsport turnpike, between the properties of Lambert and Silver, at bottom of hollow; thence again by another line of the corporate limits westerly to city corner on the northerly side of the "Y" track connecting the Baltimore and Ohio and Cumberland Valley railroads at intersection; thence with the northwesterly line of the city limits, in a southwesterly direction, to the center of the Baltimore and Ohio right-of-way at the point 672 feet northerly from center of Cumberland Valley overhead bridge; thence southerly along the center line of the right-of-way of the Baltimore and Ohio railroad to the beginning at center of Williamsport avenue, which shall constitute the fifth ward.

Sec. 58. The city of Martinsburg, by ordinance of the council, may borrow money in an amount equal to the amount of said liens herein acquired, for the purpose of paying any contract for grading, paving and sewerage under this act, make and issue its notes and bonds evidencing such loans, and assign said liens as security therefor or for any part thereof; and is hereby authorized, in addition thereto, to borrow money and issue its bonds for the purpose of providing funds sufficient to pay the difference between the entire cost of such improvements, and the special assessment provided for by sections fifty-four and fifty-five of this chapter, and authorized to sell said bonds, but the price for which they are sold shall not be less than par; said bonds shall be payable in not to exceed thirty-four years from the date thereof, and shall bear interest at not exceeding six per centum per annum payable semi-annually; *provided, however,* that by the issue of such bonds the said city of Martinsburg does not cause the aggregate of its debt of every kind whatsoever to exceed five per centum on the taxable value of the property therein, to be ascertained by the last assessment for state and county purposes, nor without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such bonds and the principal thereof within and not exceeding thirty-four years; and, *provided, further,* that in no event shall the money so borrowed, or the proceeds of the bonds so issued and sold, be expended for any other purpose than in the payment of the indebtedness created by said city for such improvements, that is to say, that the liens created and notes and bonds issued for grading and paving of the streets shall be used only for grading and paving, and the liens created and notes and bonds issued for sewerage and otherwise im-

proving such streets shall only be used for sewerage and such other street improvements, but the purchaser or purchasers of said notes or bonds shall not be required to see to the application of the proceeds thereof; and, *provided, further*, that the term "sewerage" as employed in this act, shall be construed in its most comprehensive sense so as to authorize and include mains, laterals, connections, traps, incinerating and disposal plants, and all other necessary, convenient and useful accessories to a modern, sanitary and efficient sewerage system; and, *provided, further*, that no debt shall be contracted under this section unless all questions connected with the same shall have been first submitted to the qualified voters of said city and have received three-fifths of all the votes cast for and against the same. The council of said city may prescribe the rules and regulations under which such election shall be held, and designate as many or as few polling places as in its judgment is deemed best, and no registration of voters therefor shall be necessary.

All acts and parts of acts in conflict herewith are hereby repealed.

(House Bill No. 219.)

CHAPTER 81.

AN ACT to amend and re-enact chapter eleven of the acts of one thousand eight hundred and ninety-nine, incorporating the city of Fairmont, as amended by chapter one hundred and forty-three of the acts of one thousand nine hundred and one, of the legislature of West Virginia; and to change and enlarge the corporate limits of said city to include the town of Barnsville, and other adjacent territory; to change the form of government, and to repeal all acts and parts of acts inconsistent with the provisions of this act.

(Passed February 20, 1913. In effect from passage. Approved by the Governor February 25, 1913.)

SEC.

1. The city of Fairmont.
2. Corporate limits.
3. Wards.
4. Municipal authorities.
5. Corporate powers.
6. Powers of board of affairs.
7. Common council.
8. Elect president.
9. Clerk.
10. Common council enter upon duty.

SEC.

11. Failure to qualify, etc.; how vacancy is filled.
12. Vacancy of president, how filled.
13. Right of veto.
14. Hear and determine charges.
15. No commissioner shall be removed except.
16. Proper rules to be made.
17. Department of city government.
18. How designation of heads of departments are made.

- | | |
|--|---|
| <p>SEC.
19. Commissioner of each department to have office.
20. Election of mayor.
21. How tie vote decided.
22. Vacancy in office of mayor, how filled.
23. Rights and powers of mayor.
24. Additional officers.
25. Qualification of voters.
26. Registration of voters.
27. Nomination of candidates.
28. Nomination to fill vacancy.
29. Nominee for commissioner shall file statement.
30. Election of officers, when.
31. Election of members of council.
32. Eligible as commissioner.
33. Board of affairs, number to be voted for; who to be declared elected.
34. Tie vote, how decided.
35. Council, number to be voted for; who to be declared elected.
36. How election shall be held.
37. Contested elections.
38. Oaths of office.
39. Bonds of officers.
40. Term of office.
41. Terms of appointive officers.
42. Salary of commissioners.
43. Salary of appointive officers.
44. Pay of day laborers.
45. Duties of appointive officers.
46. Meetings of board of affairs.
47. Special meetings, how called.
48. Vote, how taken upon question or motion.
49. Minutes of the meeting.
50. Meetings of common council.
51. Special meetings of council.
52. Attendance of witnesses, punishing contempts, etc.
53. Quorum.
54. Filling vacancy in office of commissioner.
55. In case of more than two vacancies on board of affairs, how filled.
56. Absence of officers.
57. Member of board of affairs can hold one office only.
58. Appointed officer shall not hold two official positions.
59. Purchasing supplies.
60. Police judge and other officers.
61. Franchises and ordinances that require vote of at least three members of board.
62. When franchise effective.
63. When ordinance effective.
64. In case of veto, what.
65. Tie vote on passage of franchise, how decided.
66. Publication of notice to present franchise, required; word franchise defined.
67. Style of ordinance.
68. Licenses.
69. Nuisances.</p> | <p>SEC.
70. Board may require owners or others to connect sewers.
71. Sidewalks and shade trees.
72. Taxes, levies, assessments, etc.
73. Board has authority to levy and collect annual tax.
74. Taxes assessed to be a lien; duties of clerk and treasurer.
75. No taxes to be collected for roads outside corporate limits.
76. Capitation tax, two dollars.
77. Depositing city funds.
78. Street paving.
79. May issue bonds for paving, grading, etc.; paving, grading, etc., further defined.
80. Proportion of total cost, etc., how adjusted.
81. Board may cause costs of grading, etc., to be paid in manner.
82. Upon petition, etc., board may order paving or macadamizing done.
83. Sewer construction.
84. Release of liens.
85. May issue and sell bonds, if approved by people at an election; vote necessary.
85a. May issue and sell bonds for water works, etc.
86. Costs of contemplated improvements shall include.
87. Sufficient description as to abutting lands.
88. When work completed on avenue, etc., what required.
89. Civil service board may be appointed.
90. Who shall be selected for positions if.
91. Term of service of appointees in case civil service board is created; who to determine; charges against officers or persons holding positions.
92. Code of laws, etc.
93. Non-partisan administration.
94. Service of notice.
95. Board of affairs successor to council.
96. Officers of Barnsville.
97. Mayor and council of Fairmont to continue in office until.
98. Duty of council of Fairmont as constituted before this act takes effect, with respect to election, etc.; duty of clerk.
99. Existing ordinances in Barnsville.
100. Ordinances in Fairmont.
101. Clerk custodian of records.
102. Recall.
103. Initiative.
104. Referendum.
105. Petitioners must be legal voters.
106. This act to be ratified by voters; election; form of ticket.
107. Inconsistent acts repealed.</p> |
|--|---|

Be it enacted by the Legislature of West Virginia:

That chapter eleven of the acts of one thousand eight hundred and ninety-nine, as amended by chapter one hundred and forty-three of the acts of one thousand nine hundred and one, of the legislature of

West Virginia be amended and re-enacted to include the territory heretofore within the limits of said city of Fairmont, and additional territory adjacent thereto fully described in this act, so as to read as follows:

ARTICLE I.

The City of Fairmont.

Sec. 1. That part of the county of Marion included in the limits hereafter mentioned in section two is hereby made a city corporate and body politic by the name of "the city of Fairmont," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, purchase, lease, sell and hold land and personal property necessary to the purposes of said corporation.

Corporate Limits.

Sec. 2. The corporation territorial limits of the city of Fairmont shall be as follows, to-wit:

Beginning at a point near the water edge on the south side of the West Fork river, about 70 feet below the Hunsaker bridge; thence north $41^{\circ} 38' W.$ 728 feet, passing over the south river span of said bridge and crossing said river to a point on the slope above the B. & O R. R. track on the north or west bank of said river; thence north $11^{\circ} 11' E.$ 3,271 feet, crossing the Watson road; approximately following the ravine west of the Crawford house, and passing west of the "Fairmont Farms Homestead" to a point on the southerly side of Ninth street and westerly side of Coleman avenue; thence north $59^{\circ} 45' W.$ 320 feet and following the southerly line of Ninth street to the westerly line of Mt. Vernon avenue; thence north $30^{\circ} 15' E.$ 600 feet, following the westerly line of Mt. Vernon avenue to the southerly line of Eighth street; thence north $59^{\circ} 45' W.$ 180 feet, following the southerly line of Eighth street; thence northerly 15 feet to the southerly line of the right-of-way of the Monongahela Valley Traction Company; thence following the said southerly line of right-of-way of said traction company, by a curve to the right, with a radius of 301.5 feet, a distance of 218 feet; thence still following said right-of-way, by curve to the left, with radius of 338.7 feet, for a distance of 421 feet; thence still by right-of-way and continued passing the point of curve 497 feet to a stake; thence north $18^{\circ} 15' west$ 901 feet to a hickory tree corner to

present city limits and to the former limits of the town of West Fairmont; thence north $17^{\circ} 11' W.$ 3,676 feet, crossing the Clarksburg pike and Locust avenue line of the Monongahela Valley Traction Company to a point on the hill north of the Pine Grove road, near the Pete Andy Fleming house; thence north $59^{\circ} 24' E.$ 5,009 feet to a point on a hill overlooking Buffalo creek; thence north $59^{\circ} 14' E.$ 4,369 feet to a point on a hillside back of Barnsville; thence south $48^{\circ} 12' E.$ 7,082 feet, crossing the Monongahela river diagonally to a point on top of hill west of fair grounds; thence south $68^{\circ} 37' E.$ 686 feet to a corner of fair ground property; thence following the lines of fair ground property, and excluding same, south $46^{\circ} 43' E.$ 104 feet; thence by fair ground property south $52^{\circ} 25' E.$ 497 feet; thence by fair ground property south $68^{\circ} 24' E.$ 746 feet to the line between fair grounds and right-of-way of the Monongahela Valley Traction Company; thence following line between fair grounds and Monongahela Valley Traction Company north $8^{\circ} 30' E.$ 452 feet to the line (extended) between Bowen and fair grounds; thence following line between Bowen and fair grounds south $72^{\circ} 37' E.$ 351 feet to the westerly side of Morgantown avenue; thence following the westerly line of Morgantown avenue north $16^{\circ} 48' E.$ 313 feet to the northerly line of Meredith street, in the "Fairmont Industrial Company's addition" to the city of Fairmont; thence crossing Morgantown avenue and following the northerly line of Meredith street south $78^{\circ} 9' E.$ 768.7 feet to the westerly line of Speedway; thence north $1^{\circ} 43' E.$ 229 feet along the westerly side of Speedway to limits of the said Industrial company's line; thence following the line between Meredith and Industrial company south $83^{\circ} 33' E.$ 575 feet to store corner at rear of lots fronting on Owens avenue, (laid out by said Industrial Company); thence by course and distance as laid down on said Industrial Company's map and at rear of lots fronting on Owens avenue south $11^{\circ} 25' W.$ 843.36 feet to a stone; thence by rear of lots as aforesaid south $20^{\circ} 24' E.$ 1,202.28 feet to a stone; thence by rear of lots as aforesaid $27^{\circ} 10' W.$ 518.83 feet to a white rock; thence by rear of lots as aforesaid south $38^{\circ} 36' W.$ 890 feet to a locust stump; thence crossing a 40 ft. street and about south $44^{\circ} W.$ 115' to the westerly side of an alley in rear of lots facing on Owens avenue; thence following westerly side of said alley south $41^{\circ} 54' W.$ and continuing line of said county road or boulevard 1,475 feet; thence following westerly line of said county road or boulevard with city varying courses, distance about 1,700 feet to its inter-

section with Owens avenue; thence crossing said boulevard with line (continued) between lots No. 421 and No. 422 (by said Industrial Company's map) south $15^{\circ} 33' E.$ 142.6 feet to rear of lots fronting on Owens avenue to west side of Bungalow avenue; thence following west side of Bungalow avenue south $67^{\circ} 51' W.$ 590 feet to line between lots Nos. 604 and 605 (said Industrial Company's map); thence by line between said lots Nos. 604 and 605 south $11^{\circ} 29' E.$ 204 feet, crossing Owens avenue to rear of lots fronting on Owens avenue; thence by line at rear of said lots fronting on Owens avenue south $21^{\circ} 51' W.$ 408 feet to a white oak stump; thence by property line south $56^{\circ} 13' W.$ 576.8 feet to locust at rear of said lots; thence by property line south $58^{\circ} 44' W.$ 348 feet to stake in line old county road or Grafton pike—the limits of said Industrial Company's property; thence leaving lines of said Industrial Company's property crossing said Grafton pike diagonally to a point west of same north $24^{\circ} 47' W.$ 1,183 feet; thence north $85^{\circ} 48' W.$ 1,570 feet to a point on hill above cemetery and above Grand avenue; thence south $32^{\circ} 54' W.$ 2,568 feet, crossing the Colfax road to a point on the hillside east of the Pleasant Valley road; thence north $54^{\circ} 46' W.$ 3,640 feet, crossing the Pleasant Valley road and passing along the north slope of Palatine hill to a point on the east bank of the Monongahela river; thence following the east bank of said river and running up stream south $3^{\circ} 45' W.$ 1,458 feet to a stake; thence still following the said river south $7^{\circ} 56' W.$ 576 feet; thence still following said river south $17^{\circ} 19' W.$ 253 feet; thence still following said river south $20^{\circ} 31' W.$ 188 feet; thence still following said river south $18^{\circ} 19' W.$ 307 feet; thence still following said river south $33^{\circ} 14' W.$ 268 feet; thence still following the said river south $37^{\circ} 16' W.$ 334 feet; thence still following the said river south $49^{\circ} 31' W.$ 343 feet; thence still following the said river south $55^{\circ} 43' W.$ 381 feet to a point between the B. & O. R. R. tracks at Gaston Junction bridge on the east side of said river; thence south $72^{\circ} 5' W.$ 1,182 feet to a point near junction of Valley river and West Fork river; thence north $79^{\circ} 39' W.$ 657 feet, crossing the Tygarts Valley river to the point of land between the two above mentioned rivers and on the east bank of the West Fork river; thence north $75^{\circ} 24' W.$ 433 feet to place of beginning.

Sec. 3. The territory of said city shall consist of eight wards, which shall be designated and known respectively as first, second, third, fourth, fifth, sixth, seventh and eighth wards. And the city

council of the present city of Fairmont, as the same shall be constituted when this act becomes effective, shall, within twenty days after the same so becomes effective, cause a census to be taken and returned of the inhabitants of the said territory of the city, and shall then make division of said territory into eight wards and establish and designate the boundaries of such wards, so as to make the population of said wards as nearly equal as possible.

It is *provided, however*, that the board of affairs, hereinafter provided for, after the expiration of two years from the time this act takes effect, may by ordinance fix the boundaries and increase or decrease the number of wards.

ARTICLE II.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Fairmont shall be four commissioners who shall constitute a board of affairs, (and the common council hereinafter provided for in article three) and shall be known as the "board of affairs of the city of Fairmont."

Corporate Powers.

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

Powers of Board of Affairs.

Sec. 6. The board of affairs of said city shall have and are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, and pave streets, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them: to have the right to control all bridges within said city, and the traffic passing thereover: to change name of any street, avenue or road within said city, and to cause the re-numbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads

and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by steamboats, railroads or other carriers, of paupers or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill fame, houses of assignation, and gaming houses or any part thereof, and to punish gaming; to prohibit within said city or within one mile thereof slaughter houses, soap or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction of the same, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to a city architect or building inspector; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to determine at whose expense the same shall be done; and to build and maintain fire station houses, police stations and police courts, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares and parks, either within or without the city limits as hereinafter defined, and, when the board of affairs determine that any real estate is necessary to be acquired by said city for any such purpose, or for any public purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent and upon the same conditions as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia of the edition of one thousand nine hundred and six, and as now amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate, including libraries and hospitals, deemed proper for use of such city; and, for the protection of the public, to cause the removal of unsafe walls or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive

or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping of gunpowder, gasoline, dynamite and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks and all noises or performances which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulation for guarding against danger or damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Marion county to keep and maintain the poor, or any number thereof, upon terms to be agreed upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same so as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theaters, circuses, the exhibition of showmen and shows of any kind and the exhibition of natural or artificial curiosities, caravans, menageries, and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and to provide necessary apparatus, engines and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals, and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof, and other things through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate

markets and to prescribe the time for holding the same, and what shall be sold in such markets, and do acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertisements in, on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to appoint and fix the places of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, telephone plants, electric light works or water works or ferry boats, in or near the city, and to operate the same and sell the products or services thereof, and to do any and all things necessary and incidental to the conduct of such business, including the right in any franchise hereafter granted; to fix and change the charges and prices for which the service or article of the person or company operating any such plants or works, or any other public utilities or public service corporation under such future franchise may be had by their patrons or consumers; to build, hold, purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties or costs under this act, who are otherwise unable or fail to discharge the same, by putting them to work for the benefit of the city upon the streets or other places provided by said city, and to use such means to prevent their escape while at work as the board of affairs may deem expedient; and the board of affairs may fix a reasonable rate per day as wages to

be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the board of affairs; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six. For all such purposes, except that of taxation, the board of affairs shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part thereof within said one mile limit. Said city of Fairmont as constituted by this act, shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to said city of Fairmont, as heretofore constituted.

And the board of affairs shall have the right to establish, construct and maintain landings, ferries, wharves, and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter, or remove any such landings, ferries, wharves, buildings or docks which have been or shall be constructed, and to levy and collect reasonable duty on vessels and other crafts coming to or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used and to have the sole right under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city; to enter into an article of agreement with the county court of Marion county for joint action on behalf of the city of Fairmont or any portion thereof with the magisterial district or districts adjacent to said city of Fairmont, for the permanent improvement of streets and roads within said city or magisterial districts. Said article of agreement may provide for the selling of bonds of said magisterial district or districts including the city of Fairmont or any portions thereof upon an affirmative vote of three-fifths of all the votes cast at a special election called for this purpose by the authority of said county court.

And the board of affairs is hereby authorized and empowered to sell and convey by proper deed the certain lot or parcel of land situate near Fairmont, in the county of Marion, known as and called the "old Fairmont cemetery," being the land granted to the borough of Fairmont as a public burying ground by Uz Barns and wife by

deed bearing date the twentieth day of March, one thousand eight hundred and fifty-one, and of record in the clerk's office of the county court of said county in deed book No. 6, page one hundred and sixty-nine, and the land adjoining the same acquired for the use of the borough of Fairmont, or the town of Fairmont, as a burying ground or graveyard.

ARTICLE III.

Common Council.

Sec. 7. The city of Fairmont shall have an additional board to that provided in article two, section four of this act, to be known and styled the "common council of the city of Fairmont," and which shall be comprised of two persons from each ward of the city, and who shall be voted for and elected by the voters of each ward respectively, and in the manner hereinafter prescribed.

Sec. 8. The common council shall, at its first meeting after a majority of the newly elected members thereof shall have qualified, elect one of its members president of the body, whose term of office shall run with the term of the members of the body electing him.

Sec. 9. The city clerk shall be *ex officio* clerk of the common council, and shall perform such duties pertaining thereto as the council may require of him.

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

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

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

Sec. 13. The right of veto on any franchise or ordinance passed by the board of affairs is hereby conferred upon the common council,

in the manner prescribed in article twelve of this act. Such veto shall be by a majority vote of all the members elected to said council, (except as prescribed in section seventy-three of this act), and the vote thereon shall be taken by roll call of the members and entered of record in the minutes of the meeting.

Sec. 14. The common council shall have the right to hear, consider and act on charges against any member of the board of affairs, and, after having heard proof of such charges, may remove such commissioner and declare his office vacant by two-thirds of all the members elected on said board, and the vote thereon shall be by roll call of the members and entered of record in the minutes of the meeting. But before such commissioner shall be put to trial on said charges, he shall have at least ten days' written notice of the nature of said charges, and the time and place of a hearing thereon before said common council. If the common council, after hearing of said charges, shall remove said commissioner from office, thereby declaring a vacancy in his said office of commissioner, it shall through its president or otherwise, cause its action thereabout to be at once certified to the board of affairs.

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

Sec. 16. The common council shall make proper rules for its government not contrary or inconsistent with any of the provisions of this act or the authority vested in the board of affairs; and it shall cause a record of its meetings and proceedings to be kept and recorded by its clerk in a well bound book, which shall remain in the custody and at the office of the city clerk open to the public inspection. The minutes of the meeting and proceedings of said council, after recordation and when signed by its president, shall be admitted as evidence in any court of record in this state.

ARTICLE IV.

Departments of City Government.

Sec. 17. In order to better dispatch the business of the city, and assign more in detail the duties of the members of the board of affairs, the government of said city is hereby divided into four departments, to-wit:

Department of fire, police, law, health and charity.

Department of finance, taxation and public utilities.

Department of streets, wharves, public buildings and grounds.

Department of water and sewers.

Sec. 18. The mayor and board of affairs shall at the first regular meeting of the board of affairs following their election and qualifications, designate the mayor and each of the other commissioners at the head of one of the said departments of government, and the commissioner thus assigned shall be styled the commissioner of that department, and he shall have the immediate care and supervision of his department but subject always to the control of the board of affairs. The business and the labors incident thereto of each of the departments shall be that which properly falls within the scope of the particular department, but which, in detail, may be fixed from time to time by the board of affairs. The head of each department shall see to the performance of all the business coming within his department or which may be referred thereto or to any officer thereunder, from time to time.

Sec. 19. The commissioner of each department shall keep a public office in the city building at which he may be found or communicated with during stated hours to be fixed by him for the convenience of the public, unless his official duties call him elsewhere.

ARTICLE V.

Mayor.

Sec. 20. The commissioner receiving the greatest number of votes at the general election for members of the board of affairs shall, by reason thereof, be the mayor of the city.

Sec. 21. If two or more commissioners shall receive an equal number of votes at such election they shall decide by casting lots which of them shall be mayor, and until such decision shall have been made the city attorney shall be the acting mayor of the city with the powers and duties and salary of mayor while he so acts, except he shall not vote on any question arising or coming before the board of affairs.

Sec. 22. A vacancy in the office of mayor shall be filled for the unexpired term by the board of affairs by the election thereto of some member of their board; *provided*, that if such appointment be made at a time when there is also a vacancy on the board of affairs, said appointment shall hold only until the vacancy on the board of affairs shall have been filled, when the full membership of the board of af-

fairs shall appoint some member of its board to the office of mayor for the unexpired term.

Sec. 23. The mayor shall have and exercise all the rights, powers and duties of mayor conferred by the constitution and laws of this state, and all those conferred by the terms of this act, and no other. He shall be the presiding officer of the board of affairs, and he, in the capacity of commissioner, shall have the right to vote on any question arising before the board, but he, in the capacity of presiding officer of the board, shall not have any vote by which to decide a question on which there is a tie vote. He shall be the executive officer of the city, and shall see, except as herein otherwise provided, that the laws and ordinances of the city and resolutions and orders of the board of affairs are enforced, and that the peace and good order of the city are preserved, and that the persons and property therein are protected. He shall perform such other duties, if they be not inconsistent with the duties of the office of mayor or commissioner, as the board of affairs may from time to time prescribe.

ARTICLE VI.

Additional Officers.

Sec. 24. In addition to the municipal authorities mentioned in section four of this act, said city shall have a city clerk, treasurer, police judge, city attorney, chief of police, chief of fire department, city engineer, health officer, and such other officers and agents as the board of affairs may from time to time create or employ. The election of all appointive officers named or provided for in this section shall be vested in the board of affairs, subject to the approval of common council. The mayor shall act as police judge unless the board of affairs direct otherwise.

ARTICLE VII.

Qualification of Voters.

Sec. 25 Every person qualified by law to vote for members of the legislature of the state, and who shall have been a resident of said city for sixty days preceding the day of election, and a *bona fide* resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held in said city by or under the corporate authorities thereof.

Registration of Voters.

Sec. 26. The board of affairs shall by ordinance provide for such regulations for the registration of voters as may be rendered necessary by state laws.

ARTICLE VIII.

Nomination of Candidates.

Sec. 27. Candidates to be voted for at any municipal election for members of the board of affairs and members of the common council may be nominated by convention, primary or petition in the manner and under the provisions now or hereafter prescribed by state laws relating thereto. *Provided, however,* that no political party shall nominate more than three persons for the office of members of the board of affairs, no two of whom shall be from the same ward, and no more than two persons in each ward of the city for the office of members of the common council. If any certificate of nomination or any petition for nomination, of candidates for either the board of affairs or the common council shall contain more names than prescribed in this section for such office, then the ballot commissioners shall take the first three names for board of affairs and the first two names for common council as the nominees of such party for said respective offices. And, *provided, further,* that there shall not be printed on any ticket on any ballot to be voted at any municipal election for the election of officers of the city more than three names for the office of members of the board of affairs nor more than two names for the office of members of the common council.

Sec. 28. In case of nomination of candidates to be voted for to fill vacancies on the board of affairs, no political party shall nominate more than double the number to be elected and such nominations shall be certified, and the names of the nominees printed on the ballot, in the manner prescribed in section twenty-seven herein.

Sec. 29. Every person so nominated for the office of commissioner, shall, within five days after his nomination has been certified by the political party making the nomination or a petition therefor shall have been filed, make, under oath, and file with the city clerk a statement of the political party to which he claims allegiance, and, if nominated by two or more parties, he shall state to which of them he belongs. If such person fail to make the oath, and file the same, as herein prescribed, the ballot commissioner shall not place his name on the ballot to be voted at the approaching election.

ARTICLE IX.

Election of Officers.

Sec. 30. On the second Tuesday of December one thousand nine hundred and thirteen, and on the same day in every fourth year thereafter, there shall be elected by the qualified voters of the whole city four commissioners, who shall hold their offices from the time of their qualification on and from the first day of the next succeeding month for the term of four years, and until their successors are elected and a majority thereof shall have qualified.

Sec. 31. At the same election at which commissioners shall be elected, there shall also be elected by the qualified voters of each ward of the city two members of the common council who shall at the time be residents of the ward from which they are elected, and who shall hold their offices from the time of their qualification on and from the first day of the next succeeding month for the term of four years, and until their successors are elected and a majority thereof shall have qualified.

Sec. 32. No person shall be eligible to the office of commissioner or member of the common council except he be a citizen entitled to vote at the election at which commissioners are elected, and be a freeholder owning real estate within the city.

Sec. 33. Not more than two persons whose names appear on any ticket of the ballot being voted at an election for members of the board of affairs shall be elected to said office. The four candidates receiving the greatest number of votes shall be declared elected; *provided*, that not more than two of the four candidates receiving the greatest number of votes shall be of the same political party, and if more than two candidates of the same political party receive the greatest number of votes, then the two of such party receiving the greatest number of votes shall be declared elected, and the votes for the other candidates of said party for said office shall be disregarded and the two candidates of other political parties voted for at said election who receive the next greatest vote shall be declared elected; *provided, further*, that if the name of any such candidate be printed on more than one ticket of the ballot, he shall be considered the candidate of the party on which ticket he received the greatest number of votes at said election; and in order to ascertain that fact, the election officers, and the board of canvassers, shall make and keep a separate tally of the votes cast for such candidate on each ticket on which his name appears.

Sec. 34. If two or more candidates receive an equal number of votes, for commissioner or member of the common council, the canvassing board, before whom said election returns shall have been canvassed, shall decide between them according to the provisions and intent of this act as to eligibility of candidates and political parties and tickets to which they belong.

Sec. 35. Not more than one person whose name appears on the ticket of any party being voted at an election for members of the common council shall be elected to said office. The two candidates receiving the greatest number of votes shall be declared elected; *provided*, that not more than one of the two candidates receiving the greatest number of votes shall be of the same political party.

Sec. 36. All elections of whatsoever kind, held under this act shall be conducted, returned and the result thereof ascertained and declared in the manner prescribed by the laws of the state relating to elections in so far as they are not in conflict or inconsistent with the provisions of this act.

Contested Elections.

Sec. 37. All contested elections shall be heard and decided by the board of affairs for the time being, and the contest shall be made and conducted in the same manner as provided for in such contests for county and district offices; and the board of affairs shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Oaths of Officers.

Sec. 38. All officers, elective and appointive, shall make oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer their respective offices with the aim to benefit any political party; and, in the case of commissioners, they shall add in their oath that they will not during their term of office become pecuniarily interested directly or indirectly, in any contract with the city, or the purchase of any supplies therefor. When the officer shall have made such oath in writing and filed the same with the city clerk, and shall have given the bond required of and accepted from him, he shall be considered as having qualified for the office to which he was elected or appointed; *provided*, that if any person elected to the office of commissioner shall

not qualify for said office as herein prescribed within ten days after he shall have been officially declared elected thereto, said office shall *ipso facto* become vacant, and said vacancy shall be filled in the manner provided for in this act.

Bond of Officers.

Sec. 39. Each member of the board of affairs, and the city clerk, treasurer, auditor, city attorney, city physician, chief of police, chief of fire department, shall, before entering upon the discharge of their duties, give an official bond, conditioned for the faithful performance of their respective duties as prescribed in this act or any ordinance now or hereafter passed, in amounts as follows: Each commissioner, five thousand dollars; the treasurer, sixty thousand dollars; the auditor, two thousand dollars; the city clerk, three thousand dollars; the city attorney, city physician, chief of police, and the chief of the fire department, each, one thousand dollars.

The board of affairs may require additional bond from any of said appointive officers, and may likewise require a bond in whatever sum they may fix, of any other appointive officer. All bonds of appointive officers shall, before their acceptance, be approved by the board of affairs; and the bonds of the commissioners shall be approved by the retiring board of affairs, (common council in the first instance) All other bonds of whatsoever kind shall not be accepted until first approved by the board of affairs. The minutes of the meeting of the board shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be *prima facie* proof of their correctness, and they, as so recorded, shall be admitted as evidence in all the courts of this state. The city clerk shall be the custodian of all bonds, except those given by him, and as to them the city treasurer shall be custodian.

All bonds, obligations or other writing taken in pursuance of any provisions of this act shall be made payable to "the city of Fairmont," and the respective persons, and their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of Marion, that collectors of

county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Term and Salary of Officers.

Sec. 40. The term of office of a member of the board of affairs and a member of the common council shall be for four years, commencing on the first day of January next after the general election, and ending on the thirty-first day of December in the third year thereafter, that is, the third year after said year, and until their successors are elected and qualified.

Sec. 41. All appointive officers (except those who may be under civil service) shall hold for the term of four years (unless sooner removed by and at the pleasure of the board of affairs) and until their successors are appointed and qualified.

Sec. 42. The salary of the commissioners shall be two thousand dollars each per annum, payable monthly as their services shall have been rendered, but the commissioner who shall be designated mayor shall receive five hundred dollars in addition to his salary as commissioner, which shall be paid monthly as his services shall have been rendered. *Provided, however,* that whenever the United States census of said city show its population to be as much as twenty thousand people, then each commissioner's salary shall be advanced to twenty-five hundred dollars; and thereafter no advance in their salary shall be made except by an ordinance passed by the board of affairs making such advance, which in no event shall exceed four thousand dollars, and which shall be subject to the veto of the common council, as provided in section thirteen of this act; and, *provided, further,* that if the board of affairs fail or refuse to make their appointments of all appointive officers for a period of thirty days, said commissioners thereafter, and until such appointments shall have been made, shall forfeit their salary; and the mayor, city clerk and treasurer shall take official notice of such failure to fill said appointive offices, and shall not issue any order for nor otherwise pay to the commissioners their salary for the period of their failure to make said appointments.

Sec. 43. The board of affairs may by ordinance fix the salaries of all appointive officers, which shall be subject to the veto of the common council, as provided in section thirteen.

Sec. 44. Laborers by the day and those doing special work may be paid by the board of affairs without fixing the price therefor by ordinance.

Duties of Appointive Officers.

Sec. 45. The duties, in addition to those prescribed herein, of all appointive officers named or authorized in this act, shall be prescribed by the board of affairs.

ARTICLE X.

Meetings of Board of Affairs.

Sec. 46. The board of affairs shall meet at some place provided for that purpose at least once each week, on a stated day and at an hour fixed by ordinance or rules governing the board.

Sec. 47. Special meetings of the board may be called by the mayor or any two members of the board by personal notice given to the other members thereof, and like notice to the public through and by at least one publication in two daily newspapers of the city of opposite politics, stating the time and object of the meeting; and no business, except that stated in said notice, shall be considered or acted upon at said meeting. All meetings of the board shall be open to the public.

How Vote Taken.

Sec. 48. The vote upon any question or motion before the board of affairs may be *viva voce* when unanimous; but if the question or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting; and when the vote is unanimous the minutes shall so state.

Minutes of the Meeting.

Sec. 49. The city clerk shall be *ex officio* clerk of the board of affairs. Said board shall cause detailed minutes of its meetings and proceedings to be kept by the city clerk in a well bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publicly at the next regular meeting of the board, and after being corrected shall be signed by the mayor and city clerk, and if thus recorded and signed, they shall be admitted as evidence in any court of record in this state.

Meetings of the Common Council.

Sec. 50. The common council shall meet on the first Monday of

each month, at an hour and at a place to be fixed by it by the rules governing its body.

Sec. 51. Special meetings of the common council may be called by its president, or any six members thereof, or by the board of affairs, or by the mayor, by a notice published in two daily newspapers of the city of opposite politics, on three successive days, stating the time and object of the meeting. The holding of a special meeting of the common council shall be *prima facie* evidence that the said notice required therefor was given as prescribed in this section.

Attendance of Witnesses, Punishing Contempts, Etc.

Sec. 52. The board of affairs and the common council in the exercise of their respective powers and the performance of their respective duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace, and other officers of the state authorized to administer oaths under state laws; and said board of affairs and said common council shall have such power to punish for contempt as is conferred on county courts by section thirteen of chapter thirty-one of the code. All process necessary to enforce the powers conferred by this act on the board of affairs and common council shall be signed by the mayor (or acting mayor), and the president of the common council, respectively, and shall be executed by any member of the police force.

Quorum.

Sec. 53. A majority of the members of the board of affairs and a majority of the members of the common council shall be necessary for the transaction of business before said respective boards.

Filling Vacancies in Office of Commissioner.

Sec. 54. Whenever a vacancy or vacancies, from any cause whatever, shall occur in the office of commissioner, and the time for a regular municipal election, as provided for in section thirty herein, is not within two years therefrom, then the board of affairs shall call a special election at which the qualified voters of the city shall fill such vacancy or vacancies by the election of some person or persons thereto; but the person or persons so elected must be eligible to hold said office, and shall be of the same political party as the person he succeeds in office. Such special election shall be governed by laws

of the state relating to elections and as prescribed in this act for regular elections.

Sec. 55. If there shall occur at any one time more than two vacancies on the board of affairs, the common council, by a majority vote of all the members elected thereto, shall fill such vacancies for the time being, but the person so appointed shall be of the same political party as the commissioner whose office was vacated and is being filled; and in no event shall such appointments be made so as to give any political party a majority on the board of affairs; *provided*, before any such appointment shall become final the person so appointed shall make and file the oath required by section twenty-nine of this act; and after the filing of said oath the common council may, if it so elects, by a majority vote of all members elected thereto, recall said appointments, or any one thereof, and such appointment from that time shall be void and of no effect, and the vacancy caused thereby shall be filled in the same manner and under the conditions prescribed in the first instance.

Commissioners thus appointed by the common council to fill vacancies on the board of affairs shall, before entering upon the discharge of their duties, take the oath required of other officers of the city, but they shall not be required to give any official bond; and they shall hold their said offices only until their successors shall have been elected and qualified as prescribed in section fifty-four of this act.

Absence of Officers.

Sec. 56. When any member of the board of affairs, or any appointive officer of the city shall from sickness or other cause be unable, for a short space of time, to attend to the duties of his office, the board of affairs, in case of the absence of a commissioner, may designate another commissioner to attend to the duties of such absent commissioner in addition to the duties already devolving upon him in the capacity of commissioner; and in case of the absence of any appointive officer, the board may appoint some other officer of the city or other person to perform the duties of such officer, during his absence, either with or without the salary, in whole or in part, of such absent officer.

Cannot Hold Any Other Office.

Sec. 57. The members of the board of affairs shall not hold any other city office, except as prescribed in this act, nor be an employe of the city in any other capacity with a compensation, nor hold any

other office or position, with or without compensation, which may interfere with the faithful discharge of their duties as commissioner.

Sec. 58. No appointive officer of the city shall hold two official offices with the city at the same time, nor shall become the employe of the city in any other capacity, without first having the consent of the board of affairs.

Purchasing Supplies.

Sec. 59. The board of affairs shall purchase all the supplies for the departments of the city government at the lowest price possible considering the quality and grade of the supplies desired. And when practicable, the board shall advertise by reasonable notice in at least two daily newspapers of opposite politics, for bids on supplies to be furnished, and shall award contract therein (unless all bids are rejected), to the lowest bidder, taking from such bidder a written contract and bond therein, to be approved by the board, for the faithful performance of said contract.

ARTICLE XI.

Police Judge and Other Officers.

Sec. 60. All persons elected or appointed to the offices named in this act shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the board of affairs.

The police judge shall be *ex officio* a justice of the peace, with authority to issue warrants or other process for all offenses committed within the police jurisdiction of the city of Fairmont of which a justice of the peace has jurisdiction under the state laws, and for all violations of any city ordinances; in order to preserve the peace and good order of the city, and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrants therefor. The police judge may, without fees or other compensation, commit persons charged with felony or misdemeanor to jail, or take bond for their appearance before the grand jury of the circuit court of Marion county; and he shall have power to issue executions for all fines, penalties and costs imposed by him. And he may require the immediate payment thereof, and in default of such payment, may commit the person so in default to jail unless the fine and penalty and costs shall be paid or satisfied, and to be employed during imprisonment as provided by this

act. Any person sentenced to imprisonment, or any person or corporation assessed with a fine, shall be allowed to appeal from said decision of the police judge in the same manner and under the same conditions as appeals are allowed from a justice of the peace, conditioned that the person proposing to appeal will perform and satisfy any judgment which may be recovered against him by the circuit court on such appeal. If such appeal be taken the warrant of arrest, the transcript of the judgment, the appeal bonds and other papers of the case, shall be forthwith delivered by the police judge to the clerk of the circuit court, and said circuit court shall proceed to try the case as upon indictment or presentment, and render such judgment, including that of costs, as the law and evidence may demand.

ARTICLE XII.

Vote on Franchises, Ordinances, Officers, Etc.

Sec. 61. No franchise or ordinance shall be passed, and no contract shall be awarded, nor any money appropriated for any one purpose in a greater sum than twenty-five dollars, and no appointments of any officer shall be made, nor any vacancy in office declared without the affirmative vote of at least three members of the board of affairs.

Sec. 62. When any franchise shall have passed the board of affairs it shall not become effective until after the next regular meeting time of the common council, or a special meeting time of said body called to act on such franchise, and not then if said common council at such meeting time expresses its veto to said franchise, as provided in section thirteen of this act.

Sec. 63. If any ordinance passes the board of affairs, it shall become and remain effective as therein prescribed, unless vetoed by the common council at its next regular meeting time, or special meeting time called to act on said ordinance.

Sec. 64. Whenever the common council shall express its veto of any franchise or ordinance passed by the board of affairs, it shall not later than the second day thereafter, cause such franchise or ordinance, with its veto thereof and its written reasons therefor, addressed to the board of affairs, to be transmitted to the city clerk, and the city clerk shall submit the same to the board of affairs, at its next regular meeting, or special meeting called for that purpose, which shall be noted in the minutes of said meeting; but a failure to transmit such franchise or ordinance within said time shall not render

such veto void. If the franchise or ordinance shall be changed and again passed by the board of affairs, it shall be treated as a new or original ordinance and subject to the veto power of the common council.

Sec. 65. If there shall be a tie vote on the passage of any franchise before the board of affairs, the mayor shall at once transmit such franchise, with a written statement that the vote on the passage of the same before the board of affairs was a tie, to the president of the common council, who shall lay the same before said common council at its next regular meeting time thereafter, or prior special meeting time called for that purpose. If upon consideration of said franchise by the common council a majority of all the members elected to said common council shall vote for the passage of said franchise as transmitted from the board of affairs, it shall be considered passed and adopted, and shall become effective as prescribed by the terms thereof.

The common council, through its president or otherwise, after the expiration of the time for the consideration of said franchise, shall at once transmit the same, with the action of the common council, if any, addressed to the board of affairs, to the city clerk, who shall call the same to the attention of the board of affairs at their next regular meeting, or special meeting called for the purpose, at which shall be noted in the minutes the action of the common council on said franchise.

Sec. 66. Publication of notice to present franchise, and other preliminaries prescribed by the laws of the state relating thereto, shall be had in the manner prescribed by state laws, before the board of affairs shall act on any such franchise; but the passage of any franchise shall be *prima facie* proof that such notice was given as prescribed by law.

The word "franchise," whenever used in this act, shall include every special privilege in, under and over the streets, highways and public grounds of the city which does not belong to the citizens generally by common right.

Sec. 67. The style of any ordinance enacted by the board of affairs, shall be, "Be it ordained by the Board of Affairs of the City of Fairmont."

ARTICLE XIII.

Licenses.

Sec. 68. Concerning anything for which a state license is required to be done within the said county, the board of affairs may require a city license therefor, and may impose a tax thereon for the use of the city; and the board of affairs shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts or wagons, drays, and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon, and to subject the same to such regulations as the interest and convenience of the inhabitants of said city, in the opinion of the board of affairs, may require. No license to sell strong or spirituous liquors, or wine, ale, beer, porter, or drinks of like nature, within the said city, or within one mile of the corporate limits thereof, excepting any other municipal corporation which may lie within said limit, shall be granted by the county court of the county of Marion; but the board of affairs of said city shall, under the state laws, have the power to grant, refuse or revoke any such license within the corporate limits thereof. The board of affairs shall require from the person so licensed a bond, with approved security, payable to the said city in such penalty, and with such conditions, as it may think proper, and may revoke such license at any time if the condition of the bond is broken; and the board of affairs shall have authority to subject any person or persons, who without having paid the tax imposed by the board of affairs for the privilege, shall do any act or follow any employment of business in the said city upon which the said board is or shall be authorized to impose a tax, to any fine or imprisonment which it is or may be authorized to impose or inflict for the enforcement of its ordinances; *provided, further*, that the board of affairs under limit hereby made shall not fix the license tax on saloon keepers at less than ten hundred dollars.

Nuisances.

Sec. 69. The board of affairs of said city shall have authority to abate and remove all nuisances in said city. It may compel the owners, agents, assignees, occupants or tenants, of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and by ordinance provided for the violation of such orders.

Said board of affairs may also by its own officers, appointees and

employes, abate and remove nuisances. It may by ordinance, regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing, drains, yards, pens, stables, and other places, where offensive or dangerous substances, or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignee, occupant or tenant, of any premises or structure where such violation may occur.

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

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

Any expense incurred by the board of affairs, as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the

provisions of this act. The abatement or removal of any such nuisance by the board of affairs at the expense of said city, as herein provided, shall be *prima facie* proof that the said notice to the owner, occupant, tenant, agent or assignee, was given as herein prescribed.

Sec. 70. The board of affairs may require all owners, tenants, and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewage, which the said city may construct, own or control, to connect with such sewer, or system of sewage, or privies, water closets, cesspools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewage.

Sidewalks and Shade Trees.

Sec. 71. The board of affairs are authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners or occupiers of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalk between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any such sidewalk, curb or gutter, or plant any such shade trees, unless specially required to do so by resolution adopted by said board, and then only in the manner prescribed by said board, but said city may lay such sidewalk, curb or gutter, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in

equity before any court having jurisdiction as other liens against real estate are enforced. The amount so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due and payable in ninety days from the completion and acceptance of such work as certified to by the board of affairs, with six per cent interest thereon from the date of such record acceptance. And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the board may assess the total cost of laying such sidewalk, and planting trees, in front or alongside said lot and extended to the curb or gutter of the intersections of the avenues, streets, roads or alleys at that point.

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

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may

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

Before letting such work to contract, the board shall advertise the same once a week for two successive weeks in two newspapers of opposite politics published in the city of Fairmont or in one paper in case publication cannot be had in two such papers, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made therefor; and the city reserves the right, whether stated in such notice or not, to refuse any and all bids for the work. On refusal of said papers to publish said notice at reasonable rates, the board may, by resolution, direct how such notice may be given. The fact that such contract shall be awarded for said work shall be *prima facie* proof that said notice was given as required herein. Such lien, as represented by certificate, may be released of record in the office of the county clerk in the same manner as paving liens, represented by certificate, are released of record, as provided for in section eighty-four herein; and in no event shall such assessment be and remain a lien of record for a longer period than

one year from the date set out in said certified report so recorded in the office of the county clerk, unless at the end of said one year period a suit shall be pending for the enforcement of said lien, or the amount thereof shall, in some way, be involved in a suit pending at the end of said one year period.

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

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

ARTICLE XIV.

Taxes, Levies, Assessments, Etc.

Sec. 72. The board of affairs shall annually, before the levying of taxes provided for and authorized by this act, ascertain the total expense of said city to be provided for by levy for the fiscal year in which said levy is made, and it shall ascertain the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, and to provide the necessary sinking funds, and what amounts it shall expend for the support of its various departments, and for the improvements of its streets, alleys, avenues and public grounds, or for its contingent expenses; and before making such levy it shall apportion the rate thereof among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of said board and a copy of a statement thereof shall be annually pub-

lished by direction of said board as soon as the same is recorded, in at least two newspapers of said city of opposite politics.

Sec. 73. The board of affairs shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license and assess a tax thereon on wheeled vehicles for public hire and upon all dogs kept within said city, and to impose a tax upon all other subjects of taxation under the several laws of the state, which taxes shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, and on capital, on which the state imposes a tax; *provided*, that no greater levy shall be laid by said board of affairs on the taxable property of said city than is now permitted to be laid under the state law relating to municipalities, except, however, that the said board of affairs may, by the unanimous vote of its members, by ordinance, lay an additional levy not to exceed twenty cents on the one hundred dollars of all the taxable property within said city; but said ordinance laying said additional levy shall not become effective or operative if two-fifths of all the members elected to the common council shall express a veto to said ordinance in the manner prescribed in article three of this act.

Sec. 74. All taxes assessed upon the real estate within the said city, shall remain a lien thereon from the time the same are so assessed, which shall have priority over all other liens, except for taxes due the state, county or district, and all taxes whether assessed upon realty or personalty or otherwise may be enforced and collected in the same manner and by the same remedies as is now or may hereafter be provided by law for the enforcement of liens and levies for state and county taxes, or in such manner as the board of affairs may by ordinance prescribe. And in levying of taxes and collection thereof, and the return of property delinquent for non-payment of taxes, the duties of the city clerk shall be similar to the duties of the county clerk of Marion county in that behalf; the duties of the treasurer in the collection of taxes, licenses and moneys due the city and accounting for the same and the return of property delinquent for the non-payment of taxes, shall be similar to the duties of the sheriff of Marion county; except the board of affairs may make such regulations and ordinances prescribing the duties of the city clerk and city treasurer and their manner of performance as the board may deem necessary. And the board shall, through itself and such officers and employes as it may appoint or employ under such regulations and ordinances as it may enact (not contrary to the laws of this state), hav-

ing such authority and power as may be necessary for the levying and collecting of taxes, tithables, fines, licenses, sewer and paving assessments owing the city, with power and authority to enforce the collection of such fines by imprisonment in the city or county jail.

Sec. 75. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads outside of said corporate limits, except as provided for in section six, article two of this act. And neither the county court of Marion county, nor the authorities of the district or districts in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges and wharves, except by article of agreement provided for in section six, article two of this act, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, alleys, wharves and bridges in its corporate limits.

Sec. 76. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city, over twenty-one years of age, by the board of affairs, and the same shall be set out and included in the personal property book against every such inhabitant, and shall be collected by the city treasurer or other officer of the city acting in lieu thereof and under the authority of the board of affairs, at the time of collecting other levies and taxes. All money collected under this section shall go into the street fund to be expended upon the streets, alleys, sidewalks, drains, gutters and bridges of said city.

Depositing City Funds.

Sec. 77. It shall be the duty of the city treasurer to keep all funds of the city in some bank or banks within said city which shall pay two per cent or more per annum interest on such deposits, payable quarterly, based on the average daily balance of such funds in all accounts. If no bank within said city is willing at any time to receive deposits of the treasurer and to pay such interest thereon, the treasurer shall report this fact to the board of affairs who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits said bank or banks shall give bond in the penalty prescribed

by the board of affairs, and with sureties to be approved by said board, conditioned for the prompt payment, whenever lawfully required, of all the city moneys, or parts thereof which may be deposited with them, which bonds shall be renewed at such times as the board of affairs may require.

Street Paving.

Sec. 78. (a) The board of affairs of the city of Fairmont may order and cause any avenue, street, road or alley therein to be graded, or curbed, or recurbed with stone, concrete or other suitable material, or paved or repaved, between curbs, with brick, wooden blocks, asphalt or other suitable material, or to be graded and curbed or recurbed and paved or repaved as aforesaid, or to be macadamized, or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it to contract as hereinafter provided in (d) of this section; and may purchase or condemn land for opening or widening avenues, streets, roads and alleys. The entire cost, or any part thereof designated by the board of affairs, of such grading, curbing, and paving, or macadamizing, or other permanent improvements, of any of the avenues, streets, roads, and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof, and the cost, or any part thereof, of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such avenue, street, road or alley so improved, except as otherwise provided in (g) of this section.

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of the intersection of avenues, streets, roads or alleys, unless the work to be

done, and the payment made therefor, as especially otherwise provided therein, as follows, to-wit:

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

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

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

(f) And if any such avenues, streets, roads or alleys be occupied by street car tracks or tracks of other railroads the cost of said improvement of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the per-

son or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

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

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

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

(i) The notice for bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in two newspapers of opposite pol-

itics, or in one newspaper if two such newspapers be not published in the city. If the publication of the notice cannot be procured in any newspaper in said city at reasonable rates, then said notice may be given in the manner directed by the board. Said notice shall state where and how the bids or proposals shall be made; and whether so stated in the notice or not, the city may reject any and all bids for such proposed work. Before advertising for bids on the work, the city shall approve and adopt plans and specifications therefor, and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be *prima facie* proof that the notice mentioned above was given as required therein.

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

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

Sec. 79. (a) Said city of Fairmont is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said city, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and the said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state, and the restriction and limitations of the state laws of this state relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this

act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But said city shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of all the taxable property therein, as provided in chapter fifty-one of the acts of the legislature of one thousand nine hundred and five, except for the purpose of grading, curbing, paving, macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys therein, or constructing sewers therein or elsewhere, or acquiring or taking land or easement therein for street and sewer purposes, as provided for in this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or specially benefited property adjacent thereto, or on such owner, shall not be included; and likewise the amount in any sinking fund, or the amount invested therefor as provided by law, for the payment of outstanding bonds, shall not be included in the estimate of existing indebtedness; *provided*, that the aggregate of its debt of every kind whatsoever, including such special street permanent improvement bonds, or sewer bonds, shall not exceed five per centum of the value of all taxable property therein.

(b) And it shall be the duty of the board of affairs to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of affairs may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same, and as such certificates and coupons are paid he shall deliver the canceled certificates to the party paying the same. A copy of said order shall be certified by the city clerk to the clerk of the county court of Marion county, who is hereby required to index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

(c) The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows, that is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury or the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. *Provided, however,* that the owner of any land, so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided.

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

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

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

(f) The board of affairs may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street purposes,

as aforesaid, and may, if the board so elect, stipulate that the costs thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) of section seventy-eight, or specially benefited property owners, as provided in (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days, and one, two, three and four years, respectively, after the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually, which certificate, to be signed by the mayor and the clerk, or other person or persons designated of record by the board, may be sold, either to the contractor doing the paving or other of said improvements, or to any other person, and which shall cover the entire cost of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; *provided*, the city in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of affairs as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, of land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable annually, and the payment of the debt may be enforced as provided by law for the collection of other debts, or such lien may be enforced as provided in this act in the name of the holder of such certificates.

After a contract has been made by the board to pave or otherwise permanently improve any public road, avenue, street or alley in said city, under this act, and the paving or other permanent improvements, or any stipulated part thereon, has been completed, or the cost of acquiring or taking land, as aforesaid, has been ascertained, the board shall assess the amount each lot shall bear and shall make a written report, stating the number of lots and the blocks or tracts of land when not laid off into lots, and the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the

city clerk of said city, may be recorded in the clerk's office of the county court of Marion county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section eighty-four of this act, and the clerk shall index the same in the name of each lot or land owner mentioned therein.

Sec. 80. Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved or improved in such portion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets or alleys.

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

Sec. 81. The board of affairs may, if they so elect, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit:

Whenever the board of affairs shall contract for such paving or other permanent improvement to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues or alleys as aforesaid, the board may cause the mayor and city clerk to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said

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

The board of affairs may order any such avenue, street, road or alley, between the curbs and between designated points, to be graded or graded and paved or otherwise permanently improved in the manner authorized and provided in section seventy-eight hereof, and may order proper curbs of stone, cement or other suitable material to be set on both sides of the avenue, street or alley so paved or improved, and the entire cost of grading, paving and setting curbs may be assessed to the owners of the lots or fractional parts of the lots fronting or bounding on such avenue, street or alley between such designated points in proportion to the distance so fronting or bounding owned by each, except the cost of intersections, which shall be borne and paid by the city. The cost of such grading, paving and setting of curbs to be borne by the abutting owners as herein provided, shall be paid in installments as provided in section seventy-nine hereof, and shall become liens and be enforceable as provided by section seventy-nine hereof and the work hereby authorized to be done by the board

of affairs and the assessments therefor, hereby authorized to be made, shall be subject to sections seventy-eight and seventy-nine hereof, and the board shall proceed in relation thereto in accordance with said sections seventy-eight and seventy-nine.

Sec. 82. Upon the petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street or alley in said city asking the board of affairs to grade, curb, pave or macadamize or otherwise permanently improve such avenue, street or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvements abutting upon their property as provided for in section eighty-one of this act, but also offering to have their said property proportionately assessed with the total cost of the paving, grading, curbing or macadamizing or other permanent improvements of the intersection of the avenue, street or alley so paved or otherwise permanently improved as petitioned for, the board of affairs may order such avenue, street or alley to be paved or otherwise permanently improved as provided in section eighty-one herein and the paving certificates issued to cover such intersection shall be made separate and the last certificate due against them and their property so agreed to be assessed; and the city may pay such last mentioned certificates, or may re-imburse the property owners paying the same, out of the general levy for streets and wharves, but there shall be no legal obligations on said city to do so.

Sewer Construction.

Sec. 83. The board of affairs of said city are authorized and empowered to order and cause to be constructed in said city, or part within and part outside the limits of said city, any public sewer, either main or lateral, or both, by contract, or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein or to condemn land or easement therein, in the manner provided in this act, for such sewer; and when the board shall order the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon, or abutting upon an avenue, street, road or alley in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads

and alleys adjacent thereto. If said work is let to contract, the provision of (i) of section seventy-eight shall apply.

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

The amounts so assessed against said abutting lots or land, and which shall be a lien thereagainst, shall be collected in the manner provided in this act for the collection of paving liens. Said assessments shall be divided into three installments, each for one-third of the amount thereof, and the first due and payable in thirty days, the second in one year, and the third in two years, from the time of certifying the same to the treasurer, except as hereinafter provided in

this section, all bearing interest at six per centum per annum from such date, payable annually; and the board of affairs may issue sewer certificates thereon, as of said date, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount, to the contractors doing such work, or other person if the board deem it expedient; *provided*, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of affairs as expressed by resolution of record before such sale. But the owner of the land or lot so assessed may at any time anticipate and pay such assessment or certificate with interest thereon on the whole unpaid amount till the time when the next certificate due shall become due. If such assessment shall not exceed fifteen dollars, it shall be in one amount due and payable thirty days from date; if more than fifteen dollars and less than thirty dollars, then in two installments of equal payments, due and payable in thirty days and one year, respectively, from date; and if more than thirty dollars, then in three equal installments and payable as first aforesaid.

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

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

Release of Liens.

Sec. 84. In addition to the provisions for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, as elsewhere set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in title to such lot, the clerk of the county court shall mark upon the margin of the trust deed book at which said certified report is recorded, that the lien is released to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited; and the county clerk shall thereupon write across the face of each of said certificates the date of their production to him for the release of lien and shall sign his name thereto in his official capacity for which he shall receive in advance a fee of twenty-five cents for each certificate so marked, from the person demanding the release of the lien aforesaid; but if more than one of the serial certificates against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

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

Provided, further, that any paving or sewer lien, which may be created in consequence of the provisions of this act, or any lien which may have heretofore been created in consequence of an act of which

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

All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as aforesaid; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance, which the board of affairs is hereby authorized to enact, shall perform the duties here required to be performed by the treasurer.

Sec. 85. It shall be lawful for said city of Fairmont to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of the construction of

said sewers and the paving or other permanent improvements of streets and alleys, as required by this act; and said city may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; *provided*, that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

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

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 bond election and special bond election herein provided for.

Sec. 85a. For the purpose of leasing, purchasing or erecting, owning, maintaining and operating a system of water works for the city and the inhabitants and industries thereof, and the inhabitants and industries of any territory adjacent to the territory of the city of Fairmont, which the board of affairs may from time to time agree to supply from the city water works, as provided for in this or any other act of the legislature, said city of Fairmont is hereby

authorized to issue and sell its bonds, which shall bear interest not to exceed six per cent per annum, interest payable annually, by which to procure funds for such purpose, and for said purpose the city may issue and sell its bonds to an amount equal to two and one-half per centum on the taxable property therein in addition to the aggregate of its debts for all other purposes, and of every kind whatsoever, and especially in addition to the bonds and other debts provided for and referred to in section seventy-nine of said chapter three of the acts of one thousand nine hundred and nine. *Provided*, that the total indebtedness of said city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

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

In the issuance and sale of said bonds the provisions of section eighty-five of said chapter three of the acts of the legislature of one thousand nine hundred and nine, and the references therein made, shall apply, except in so far as they are inconsistent or in conflict with the provisions of this act.

Sec. 86. The cost of any improvement contemplated in this act and for which assessments may be made, shall include the cost and expenses of making the assessments, the expenses of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices on property owners, and the cost of construction.

Proceedings with respect to improvements shall be liberally construed by the board of affairs and the courts, to secure a speedy completion of the work at a reasonable cost and the speedy collection of the assessments after the time has elapsed for their payments, and merely immaterial objections in such cases shall be disregarded.

Sec. 87. 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. 88. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section seventy-one or section seventy-eight, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section eighty-three, and said assessments thereagainst shall have been calculated as provided in this act, the board of affairs shall give notice, by publication at least once a week for two successive weeks in two newspapers of opposite politics, published in said city, or in one newspaper if two such papers be not published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof, and the owners of said property shall have a right to appear before said board, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made and the board shall have the power to make any such corrections before it enters the same, as corrected, upon the records. If the publication in the newspapers aforesaid cannot be had at reasonable rates, the notice may be given in some other manner designated of record by the board. The fact that said assessment shall have been entered of record, as provided by this act, shall be *prima facie* proof that the notice mentioned herein was given as prescribed in this section.

ARTICLE XV.

Civil Service Board.

Sec. 89. Council may (although such is entirely optional with it) create by appointment a civil service board, consisting of three residents of the city, whose duty it shall be to examine all applications for position in the departments of police, fire and water works, and such other departments as may be ordained, including the chiefs of

such departments; and may define the terms and prescribe the duties of the members of said board. If such board be created, all appointments to said departments shall be made from applicants recommended by said board, and when appointed shall be removed only for cause.

Sec. 90. In case said civil service board is created, the board of affairs, in making appointments to the police department and the fire department, whether original, or to fill vacancies therein from time to time, shall select from the applicants for said respective positions those who, under said civil service examinations, received an average grade of sixty or more, giving preference to the applicant receiving the highest grade and whose grade certificate is the oldest.

When the list of names of applicants, who are eligible as prescribed in this section, shall have been exhausted, then the board of affairs may make said appointments from the list of persons who may apply therefor, disregarding, if they choose, those applicants who stood civil service examinations and received thereon a grade below sixty.

Sec. 91. In case said civil service board is created all persons appointed to a position in the police department and the fire department, under this act, shall hold their offices or positions during good behavior, and shall not be removed from their said offices or positions except for misconduct or a failure to perform their duties; *provided*, that by the unanimous vote of the board of affairs any such person may, without cause, be removed from his said office or position.

The board of affairs shall hear and determine all charges against any officer or person holding a position in the police department and the fire department, after ten days' written notice to the accused of the charges preferred against him, and of the time and place of a hearing on said charges, and an opportunity to the accused to have been heard, at such meeting, in his defense. After thus hearing said charges the board may, by a vote of three of its members, sustain the same, and by like vote may reprimand or suspend or dismiss said accused person from the service of the city. Upon the making of such charges, and pending the trial thereon, the board, by a majority vote, or the mayor if in his judgment the provocation is sufficient, may suspend the accused officer, and if he be thereafter found guilty on the charges preferred, and by reason thereof dismissed, or suspended, he shall draw no salary during the period of either of his suspensions.

Code of Laws, Etc.

Sec. 92. The board of affairs may adopt by ordinance, a code of

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

Non-Partisan Administration.

Sec. 93. The object and aim of this act is to procure an honest and efficient administration of the affairs of the city of Fairmont, free from partisan distinction or control; and the municipal authorities of the city and courts of the state shall construe this act with that aim in view.

Service Notice.

Sec. 94. Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act.

Board of Affairs Successors to Council.

Sec. 95. The board of affairs (together with the common council) provided for in this act, and their successors in office, shall be held and deemed, in law and in fact, the successors of the mayor and common council of the city of Fairmont.

Sec. 96. The mayor and the common council and all appointive officers of the town of Barnsville, as heretofore constituted, shall continue in their respective offices until the board of affairs shall have been elected and qualified, and enter on the discharge of their duties as provided by this act, and shall exercise their rights, powers and duties over the territory of the town of Barnsville as heretofore constituted as prescribed by law.

The mayor, common council and other officers of the said town of Barnsville, when said board of affairs shall have been elected and qualified, shall at once turn over to said board of affairs all records and property of Barnsville as a part of the records and property of the city of Fairmont; and the treasurer and town sergeant and other officers of Barnsville shall pay into the treasury of the city of Fairmont all corporate funds then in their hands or there-

after to come into their hands by virtue of their respective offices, to be used by said city of Fairmont, so far as necessary, to pay any legal outstanding claims against Barnsville, and the residue, if any, for general purposes. All claims, demands, assessments and uncollected taxes heretofore levied by or owing to Barnsville are hereby transferred to the city of Fairmont, which is authorized in its own name to collect the same for the purpose aforesaid in all respects and in like manner as Barnsville might have done, and the board of affairs shall require and make all proper settlements by and with the outgoing officers of Barnsville; and said city of Fairmont shall assume and pay all the indebtedness of said Barnsville except it shall not assume or be liable for the bonded indebtedness thereof, but said bonded indebtedness shall be paid in the manner provided by article fourteen of this act.

Sec. 97. The mayor and common council, and all appointive officers, of the city of Fairmont, as heretofore constituted, shall continue in their respective offices until their successors shall have been elected and qualified and entered on the discharge of their duties as provided by this act, and shall exercise their rights, powers and duties over the territory of the city of Fairmont, as heretofore constituted, as prescribed by chapter eleven of the acts of one thousand eight hundred and ninety-nine, as amended and re-enacted by chapter one hundred and forty-three of the acts of one thousand nine hundred and one, of the legislature of West Virginia.

Sec. 98. The common council of the city of Fairmont, as constituted before this act becomes effective, shall within ten days after this act takes effect, divide the territory embraced in section two of this act, and each ward thereof, into election precincts, and designate a voting place therein, to be published for at least ten days in two daily newspapers of said city, of opposite politics, before the election to be held under this act, all in the manner and according to the provisions of the laws of the state relating to such matters, and not in conflict with the provisions of this act.

And said common council of said city of Fairmont shall be, and is hereby constituted, the canvassing board, and before which the election returns of said first election under this act shall be canvassed, and the result thereof declared, in the manner prescribed by state laws, for like purpose, relating to municipal elections. And thereafter the board of affairs shall be *ex officio* a board of canvassers and as such perform said duties.

If at any time a commissioner is a candidate for re-election to said

office, the common council may appoint some person to act in his stead on the canvassing board, or if two or more commissioners are candidates for re-election, the common council may appoint a person for each candidate for re-election to act in his stead on the canvassing board, and the person or persons so appointed shall, with the other members of the board, if any, who are not candidates for re-election, canvass the returns of said election and make declaration of the result thereof; and in that event each commissioner who is a candidate for re election shall not, for that election, have anything to do with the canvass of said election returns or the making of the declaration of the result thereof.

The city clerk, acting under state laws in so far as they are not in conflict with this act, shall perform such duties relating to all municipal elections held under the municipal authorities of said city as the clerk of the county court of Marion county performs, under state laws, in relation to state, county and district elections in said county and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections.

Existing Ordinances and Records.

Sec. 99. All valid ordinances enacted by and now in force in said town of Barnsville as heretofore constituted, shall remain in full force and effect therein, except where the same are in conflict or inconsistent with this act, until the members of the board of affairs shall have been elected and qualified under the first election provided by this act and whenever a majority of said commissioners shall so qualify, all of said ordinances shall *ipso facto* be repealed. The orders of the circuit court of Marion county incorporating Barnsville shall be considered rescinded and annulled on and with December thirty-first, one thousand nine hundred and thirteen.

Sec. 100. All the valid ordinances enacted by and now in force in the city of Fairmont as heretofore constituted, shall remain in full force and effect within said territory, except when the same are in conflict or inconsistent with this act, until the members of the board of affairs, as provided for under this act, shall have been elected at the first election thereunder, and a majority thereof shall have qualified, and upon the election and qualification of a majority of said commissioners said ordinances shall *ipso facto* extend to and over the whole of the city of Fairmont, as embraced in section two of this act, and shall, on and from said time, be and remain in full force and ef-

fect in the city of Fairmont as constituted by this act, or until repealed or amended by said board of affairs.

Sec. 101. The city clerk, except as may be otherwise prescribed by the board of affairs, shall be the custodian of all the records and papers pertaining to Barnsville, as heretofore constituted, and the city of Fairmont, as heretofore and as now constituted; and said records and papers shall be kept by him at his office and open to public inspection.

Recall.

Sec. 102. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty per centum of the entire vote for the candidate for commissioner or for council, as the case may be, who received the highest vote cast at the last preceding general municipal election demanding an election of a successor of the person sought to be removed shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition, the city clerk shall examine and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and he shall attach to said petition his certificate, showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the board of affairs without delay. If the petition shall be found to be sufficient, the

board of affairs shall order and fix the date for holding said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the board of affairs that a sufficient petition is filed.

The board of affairs shall make, or cause to be made, publication of notice and all arrangements for holding such election, and same shall be conducted, returned and the result thereof declared in all respects as are other city elections; *provided, however,* that nominations shall only be of persons of the same political party as the person so sought to be removed. So far as applicable, except as otherwise herein provided, nominations hereunder shall be made in the same manner as provided for in this act for candidates in general elections at least ten days prior to said special election.

The ballots for such special election shall be in substantially the following form:

OFFICIAL BALLOT.

Special election for the balance of the unexpired term of
..... as

For

(Vote for one only)

(Names of candidates)

[]
[]

Name of present incumbent.

Official ballot, attest:

(Signature)

City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise, in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate of the same political party of the person sought to be removed receiving the highest number of votes, shall be declared elected. At such election, if such person other than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest num-

ber of votes, he shall continue in office. The said method of removal shall be cumulative, and additional to the methods heretofore prescribed by law; *provided*, that no election shall be held for the recall of any officer within six months of the beginning or the end of the term for which he was regularly elected or appointed.

Initiative.

Sec. 103. Any proposed ordinance may be submitted to the board of affairs by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petitions under section one hundred and two hereof.

If the petition accompanying the proposed ordinance be signed by electors in number to thirty per cent of the votes cast for the candidate for commissioner at the last preceding general election who received the highest number of votes and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the board of affairs, such board of affairs shall either:

(a) Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition; or,

(b) Forthwith, after the clerk shall attach to the petition accompanying such ordinance, his certificate of sufficiency, the board of affairs shall call a special election, unless a general municipal election is fixed within four months thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city.

The ballot used when voting upon said ordinance shall contain these words: "for the ordinance" and "against the ordinance," stating the nature of the proposed ordinance. If the majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section, but there shall not be more than one special election in any period of six months for such purpose.

The board of affairs may submit a proposition for the repeal of any

such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause said ordinance or proposition to be published once in each of the daily newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Referendum.

Sec. 104. No ordinance or franchise passed by the board of affairs, except when otherwise required by the general laws of the state, or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before ten days from the time of its final passage, and not then unless within two days after passage, Sundays and holidays excepted, the same shall have been published in full in some newspaper published and generally circulated in said city. And if during said ten days a petition signed by the electors of the city, equal in number to at least thirty per centum of the entire vote cast for the candidate for commissioner at the last preceding general municipal election who received the highest number of votes, protesting against the passage of such franchise or ordinance be presented to the board, the said ordinance or franchise shall thereupon be suspended from going into operation and it shall be the duty of the board of affairs to reconsider such ordinance, or franchise, and if the same is not entirely repealed the board of affairs shall submit the ordinance or franchise as is provided by subsection (b) of section one hundred and three of this act, to the vote of the electors of the city, either at the general election, or at a special municipal election to be called for that purpose, and such ordinance or franchise shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall in all respects, in accordance with the provisions of said section one hundred and four, except as to the percentage of signers, be examined and certified to by the clerk in all respects as herein provided.

All Petitioners Must Be Legal Voters.

Sec. 105. Petitions provided for in sections one hundred and two,

one hundred and three and one hundred and four of this act shall be signed by none but legal voters of the city.

To Be Ratified By Voters.

Sec. 106. This act shall not be effective unless the same shall first be submitted to the voters of said city at a special election called for the purpose and adopted by a majority of the votes cast at said election. Said special election shall be held on the third Monday of September, one thousand nine hundred and thirteen, after the publication of the act at least once a week three times immediately preceding said special election in all the daily newspapers published in the city. Said special election shall be conducted in the regular manner for regular municipal elections by the council then in office in said city of Fairmont. If this act is ratified or adopted at such election it shall then go into effect.

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

CITY OF FAIRMONT.

CHARTER ELECTION.

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

[] For adoption of new charter.

[] Against adoption of new charter.

Sec. 107. All other acts and parts of acts coming within the purview of this act and inconsistent herewith are hereby repealed.

(House Bill No. 222.)

CHAPTER 82.

AN ACT to amend and re-enact section two of chapter three of the acts of one thousand nine hundred and seven, concerning the charter of the city of Logan.

(Passed February 18, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

SEC.

2. Boundaries of city.

Be it enacted by the Legislature of West Virginia:

That section two of chapter three of the acts of one thousand nine hundred and seven, be amended and re-enacted to read as follows:

Sec. 2. The corporate boundaries of said city shall be as follows: Beginning at a stake in the center line of the Guyan Valley railroad, at the Bill Ellis hollow; thence north 17° 33' E. 854.65 feet to a dead sugar tree in the Bill Ellis hollow; thence north 29° 39' W. 7,019.0 feet to a stake in the center line of Guyan Valley railroad, at the mouth of Varney branch; thence north 78° 29' W. 528.7 feet, crossing Guyan river, to a stake at high water mark, and the lower edge of the county road; thence with the high water mark of said river to the mouth of Island creek, a distance of about one-half mile; thence crossing said Guyandotte river to a stake at high water mark in the northern street line of the short street leading from Dingess street to the river, just below the Chesapeake and Ohio railway bridge; thence with the high water mark of the said river on the northern side thereof and running up the river, to the eastern line of Jefferson avenue; thence crossing the Guyandotte river in a southerly direction and in the said line of Jefferson avenue, to the high water mark of the south side of the said river; thence with the high water mark on the south side of the river and running up the river to a point opposite the mouth of Bill Ellis hollow; thence crossing the river to the beginning.

(House Bill No. 287.)

CHAPTER 83.

AN ACT to enable the town of Barboursville, Cabell county, West Virginia, to increase its bonding power.

(Passed February 21, 1913. In effect ninety days from passage. Approved by the Governor February 22, 1913.)

SEC.

1. Bonding power increased; additional levy authorized.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the bonding power of the said town of Barboursville, West Virginia, shall be increased from its present limit of two and one-half (2½) per cent to five (5) per cent of the taxable property

in the said town of Barboursville; and that the said town of Barboursville shall be empowered and authorized to levy an additional levy to that now allowed by law, not to exceed twenty-five (25) cents on the one hundred dollars, in addition to that now allowed by law, for the purpose of paying any bonded indebtedness for water works in said town of Barboursville, which said bonds are to be used for water works only in said town of Barboursville, for the purpose of constructing, owning and operating a water plant in the town of Barboursville, Cabell county, West Virginia.

(House Bill No. 327.)

CHAPTER 84.

AN ACT to amend and re-enact section eleven of an act to amend and re-enact and to reduce into one act the several acts incorporating the town of Sistersville, in the county of Tyler, defining the powers thereof and describing the limits of said town; and incorporating the city of Sistersville in Tyler county, West Virginia, relative to the mode of voting in said city.

SEC.
11. Mode of voting; manner of holding election; corporate authorities, duty; penalties.

Be it enacted by the Legislature of West Virginia:

That section eleven of an act incorporating the city of Sistersville in Tyler county, passed February sixteen, one thousand eight hundred and ninety-nine, be amended and re-enacted so as to read as follows:

Sec. 11. In all elections by the people, the mode of voting shall be by ballot; but the voter shall be left free to vote by open, sealed or secret ballot, as he may elect. The elections in said city shall be held and conducted and the results thereof certified, returned and finally determined under the laws in force in this state, relating to general elections on the first day of January, one thousand nine hundred and thirteen. The corporate authorities in said city shall perform the duties in relation to such elections required by general law of the county courts and officers on January first, one thousand nine hundred and thirteen, and the provisions of chapter three of the code of West Virginia, in effect on that date, concerning elections by the people

shall govern such elections and be applicable thereto; and the penalties therein prescribed for offenses relating to elections shall be enforced against an offender at such corporate election; and said chapter and the amendments thereto shall have the same force and effect as if they were specially applicable to such corporate elections.

(House Bill No. 365.)

CHAPTER 85.

AN ACT to amend and re-enact sections seventy-one and eighty-eight and to amend sections seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three and eighty-four of chapter three of the acts of the legislature of West Virginia, passed January twenty-sixth, one thousand nine hundred and nine, relative to street improvements and sewer construction in the city of Huntington, as amended by chapter seventy-eight of the acts of the legislature of West Virginia, passed February twenty-third, one thousand nine hundred and eleven, and to consolidate and re-enact said sections seventy-eight to eighty-four, inclusive, so amended, into sections seventy-eight, seventy-nine, eighty-one, eighty-three and eighty-four, and to amend section eighty-five of said chapter three, by adding thereto section eighty-five-a.

(Passed February 17, 1913. In effect from passage. Approved by the Governor February 25, 1913.)

SEC.

71. Sidewalks and shade trees.
 78. Street paving.
 79. May issue bonds for providing for costs of grading, paving, etc.
 80. Board may contract for paving, etc., acquire land for street purposes, etc., how paid.

SEC.

83. Sewer construction.
 84. Release of liens.
 88. Notice of assessments about to be laid.
 85a. May issue and sell bonds for erecting or maintaining system of water works.

Be it enacted by the Legislature of West Virginia:

That sections seventy-one, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five and eighty-eight of chapter three of the acts of the legislature of West Virginia, passed January twenty-sixth, one thousand nine hundred and nine, as amended by chapter seventy-eight of the acts of the legislature of West Virginia, passed February twenty-third, one thousand nine hundred and eleven, be amended, consolidated and re-enacted and

that section eighty-five of said chapter three be amended by adding thereto section eighty-five-a, so as to read as follows:

Sidewalks and Shade Trees.

Sec. 71. The board of commissioners are authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine; and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine; and to require the owners or occupiers of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalk between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any such sidewalk, curb or gutter, or plant any such shade trees, unless specially required to do so by resolution adopted by said board, and then only in the manner prescribed by said board; but said city may lay such sidewalk, curb or gutter, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The amounts so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due and payable in ninety days from the completion and acceptance of such work as certified to by the board of commissioners, with six per cent interest thereon from the date of such record acceptance. And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the board may assess the total cost of laying such sidewalk, and planting trees, in front

or alongside said lot and extended to the curb or gutter of the intersections of the avenues, streets, roads or alleys at that point.

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

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may be sold to the contractor doing the work, or other person, in full of the total cost, in the same manner as provided for paving certificates, in section eighty-one herein; *provided*, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. Said certificates, to be signed by the mayor and clerk or other person or persons designated of record by the board, shall bear date as of the time when such work is accepted and certified by the board of commissioners, and shall be due and payable in ninety days from date thereof, with six per cent interest. When the board shall have

received said work, it shall at the same time make said assessments upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report, only in so far as it relates to the owners against whom said exhibited certificates remain unpaid, to the clerk of the county court of Cabell county, who shall record and index the same as other liens of like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said lien may be enforced, in the name of the holder of such certificate in the same manner as set out in section eighty-one in this act.

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

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

If the owner or occupier of any such lot or land shall be required by the board to lay, or relay, clean or repair any such sidewalk, curb

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

Street Paving.

Sec. 78. (a). The board of commissioners of the city of Huntington may order and cause any avenue, street, road or alley therein to be graded, or curbed or recurbed with stone, concrete or other suitable material, or paved or repaved, between curbs, with brick, wooden blocks, asphalt or other suitable material, or to be graded and curbed or recurbed and paved or repaved as aforesaid, or to be macadamized, or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it to contract as hereinafter provided in (d) of this section; and may purchase or condemn land for opening or widening avenues, streets, roads and alleys. The entire cost, or any part thereof designated by the board of commissioners, of such grading, curbing, and paving, or macadamizing, or other permanent improvements, of any of the avenues, streets, roads and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof, and the cost, or any part thereof, of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such avenue, street, road or alley so improved, except as otherwise provided in (g) of this section.

(b). Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion of the total cost (less the

portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portions thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets, roads or alleys, unless the work to be done, and the payment made therefor, as especially otherwise provided herein, as follows, to-wit:

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

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

(e). The cost of grading, curbing and paving, or otherwise im-

proving, the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the board of commissioners for such work, shall be paid by the city, except as otherwise provided in (c) of this section.

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

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

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

(h). When the board of commissioners shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such city, to be graded, or graded and paved, curbed or macadamized, or otherwise permanently improved, or land to be acquired or taken for street purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the con-

struction of any public sewer in or under any such avenue, street, road or alley, or land or easement therein to be acquired or taken therefor, or elsewhere, as provided in section eighty-three of this act, they shall by ordinance or resolution, order the work done, stating the method of payment thereof, and, if it be let to contract, notice shall be in the following manner, to-wit:

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

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

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

Sec. 79. (a). Said city of Huntington is hereby authorized to issue its bonds for the purpose of providing for the costs of grading, paving and curbing, or macadamizing, or otherwise permanently improving, the avenues, streets, roads and alleys of said city, in anticipation of special assessments to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire

costs and expenses of said improvements for which such special assessments are to be levied; and said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds, payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state, and the restriction and limitations of the state laws of this state relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But said city shall not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding two and one-half per centum on the value of all the taxable property therein, as provided in chapter fifty-one of the acts of the legislature of one thousand nine hundred and five, except for the purpose of grading, curbing, paving, macadamizing, or otherwise permanently improving, the avenues, streets, roads and alleys therein, or constructing sewers therein or elsewhere, or acquiring or taking land or easement therein for street and sewer purposes, as provided for in this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or specially benefited property adjacent thereto, or on such owner, shall not be included; and likewise the amount in any sinking fund, or the amount invested therefor as provided by law, for the payment of outstanding bonds, shall not be included in the estimate of existing indebtedness; *provided*, that the aggregate of its debt of every kind whatsoever, including such special street permanent improvement bonds, or sewer bonds, shall not exceed five per centum of the value of all taxable property therein.

(b). And it shall be the duty of the board of commissioners to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of commissioners may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same, and as such certificates and coupons are paid he shall deliver the canceled certificates to the party paying the same. A copy of said order shall be certified by the city clerk to the clerk of the county court of Cabell county, who is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

(c). The amounts so assessed against said abutting lots and owners thereof, respectively, shall be paid in ten payments, as follows: that is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the city treasury of the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. *Provided, however,* that the owner of any land, so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided.

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

(e). When all of said assessments for grading, paving and curb-

ing, or macadamizing, or other permanent improvements shall be paid in full to the treasurer, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

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

Sec. 80. The board of commissioners may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may, if the board so elect, stipulate that the costs thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) of section seventy-eight, or specially benefited property owners, as provided in (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days, and one, two, three and four years, respectively, after the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually, which certificates, to be signed by the mayor and the clerk, or other person or persons designated of record by the board, may be sold, either to the contractor doing the paving or other said improvements, or to any other person, and which shall cover the entire cost of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; *provided*, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, of land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lands, lot or part of lot so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable annually, and the payment of the debt may be enforced as provided by law for the collection of other debts, or such

lien may be enforced as provided in this act in the name of the holder of such certificates.

After a contract has been made by the board to pave or otherwise permanently improve any public road, avenue, street or alley in said city, under this act, and the paving or other permanent improvements, or any stipulated part thereon, has been completed, or the cost of acquiring or taking land, as aforesaid, has been ascertained, the board shall assess the amount each lot shall bear and shall make a written report, stating the number of lots and the blocks or tracts of land when not laid off into lots, and the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the city clerk of said city, may be recorded in the clerk's office of the county court of Cabell county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section eighty-four of this act, and the clerk shall index the same in the name of each lot or land owner mentioned therein.

Sewer Construction.

Sec. 83. The board of commissioners of said city are authorized and empowered to order and cause to be constructed in said city, or part within and part outside the limits of said city, any public sewer, either main or lateral, or both, by contract, or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein or to condemn land or easement therein, in the manner provided in this act, for such sewer; and when the board shall order the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon, or abutting upon an avenue, street, road or alley in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provision of (i) of section seventy-eight shall apply.

When said sewer is completed in any one block, or between two designated points, the board of commissioners shall cause a report to be made in writing, setting out the total cost of such sewer and a

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

The amounts so assessed against said abutting lots or land, and which shall be a lien thereagainst, shall be collected in the manner provided in this act for the collection of paving liens. Said assessments shall be divided into three installments, each for one-third of the amount thereof, and the first due and payable in thirty days, the second in one year, and the third in two years, from the time of certifying the same to the treasurer, except as hereinafter provided in this section, all bearing interest at six per centum per annum from such date, payable annually; and the board of commissioners may issue sewer certificates thereon, as of said date, as further evidence of

said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount, to the contractors doing such work, or other person if the board deem it expedient; *provided*, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. But the owner of the land or lot so assessed may at any time anticipate and pay such assessment or certificate with interest thereon on the whole unpaid amount till the time when the next certificate due shall become due. If such assessment shall not exceed fifteen dollars, it shall be in one amount due and payable in thirty days from date; if more than fifteen dollars and less than thirty dollars, then in two installments of equal amounts, due and payable in thirty days and one year, respectively, from date; and if more than thirty dollars, then in three equal installments due and payable as first aforesaid.

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

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

Release of Liens.

Sec. 84. In addition to the provisions for the release of said assess-

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

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

Provided, further, that any paving or sewer lien, which may be created in consequence of the provisions of this act, or any lien which may have heretofore been created in consequence of an act of which this is an amendment for an assessment, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against

which it may have been assessed and made a lien, for a longer period than one year after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said one year period; shall be pending for the enforcement of such lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said one year period; and further, that no such paving or sewer lien heretofore placed to record in said county court clerk's office for an assessment, the last payment of which is past due, shall remain or be a lien against the real estate therein described for a longer period than one year from the time this act takes effect, unless a suit shall be pending at the end of each one year period for the enforcement of said lien, or the amount thereof shall in some way be involved in some action then pending.

All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as aforesaid; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer the clerk, unless some other person is designated by ordinance, which the board of commissioners is hereby authorized to enact, shall perform the duties here required to be performed by the treasurer.

Sec. 88. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section seventy-one or section seventy-eight, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section eighty-

three, and said assessments thereagainst shall have been calculated as provided in this act, the board of commissioners shall give notice, by publication at least once a week for two successive weeks in two newspapers of opposite politics, published in said city, or in one newspaper if two such papers be not published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof; and the owners of said property shall have a right to appear before said board, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made; and the board shall have the power to make any such corrections before it enters the same, as corrected, upon the records. If the publication in the newspapers aforesaid cannot be had at reasonable rates, the notice may be given in some other manner designated of record by the board. The fact that said assessments shall have been entered of record, as provided by this act, shall be *prima facie* proof that the notice mentioned herein was given as prescribed in this section.

Sec. 85-a. For the purpose of leasing, purchasing or erecting, owning, maintaining and operating a system of water works for the city and the inhabitants and industries thereof, and the inhabitants and industries of any territory adjacent to the territory of the city of Huntington which the board of commissioners may from time to time agree to supply from the city water works, as provided for in this or any other act of the legislature, said city of Huntington is hereby authorized to issue and sell its bonds, which shall bear interest not to exceed six per cent per annum, interest payable annually, by which to procure funds for such purpose; and for said purpose the city may issue and sell its bonds to an amount equal to two and one-half per centum on the taxable property therein in addition to the aggregate of its debts for all other purposes and of every kind whatsoever, and especially in addition to the bonds and other debts provided for and referred to in section seventy-nine of said chapter three of the acts of one thousand nine hundred nine. *Provided*, that the total indebtedness of said city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

But said city shall not make such issue and sale of bonds without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the

principal thereof within and not exceeding thirty years, and for the purpose of aiding in the payment of any bonds issued under the provisions of this act, to enable the city to lease, purchase, own, operate and maintain a water works and system, the commissioners of the city are hereby authorized to lay a levy of not exceeding ten cents on the one hundred dollars valuation on all taxable property in the city, which said levy may be in addition to the aggregate of all other levies authorized by law; and any revenue derived from said water works over and above the expense of operating and maintaining the same, shall be applied to the payment of the bonds issued therefor.

In the issuance and sale of said bonds the provisions of section eighty-five of said chapter three of the acts of the legislature of one thousand nine hundred and nine, and the references therein made, shall apply, except in so far as they are inconsistent or in conflict with the provisions of this act.

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

(House Bill No. 368.)

CHAPTER 86.

AN ACT amending and re-enacting section sixteen of an act passed on the twenty-eighth day of February, one thousand nine hundred and seven, by the legislature in extra session, entitled, "an act providing for a charter for the city of Chester, in the county of Hancock, and to nullify the certificate of incorporation heretofore granted by the circuit court of said county to the town of Chester."

(Passed February 14, 1913. In effect from its passage. Approved by the Governor February 18, 1913.)

Sec.
16. Powers of council defined.

Be it enacted by the Legislature of West Virginia:

That section sixteen of an act passed on the twenty-eighth day of February, one thousand nine hundred and seven, entitled, "an act providing for a charter for the city of Chester in the county of Hancock and to nullify the certificate of incorporation heretofore granted by

the circuit court of said county to the town of Chester," be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair, roads, streets, alleys, pavements, sidewalks, crossings, drains and gutters therein and light the same for the use of the citizens and public, and keep the same free from obstruction of every kind; to regulate the width of pavements, sidewalks on the streets and alleys in said city, and to order the pavements, sidewalks, streets, alleys and gutters to be kept in good order, free and clean, by owners or occupants of real property next adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses or soap factories within the city limits, or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals and fowls of all kinds from going or being at large in said city, and as one means of prevention, to provide for impounding and confining of 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 and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide for the making and maintaining of division fences by the owner of adjoining premises, and for the proper drainage of city lots, or other parcels of land, by or at the expense of the owner or occupant thereof; to provide against damage or danger by fire; to punish for assaults and batteries; to prohibit loitering in, conducting or visiting houses of ill fame, or loitering upon the streets: to prevent lewd and lascivious conduct, sale of or exhibition of indecent pictures or other representations; to prevent the sale or disposal of intoxicating liquors; to prevent desecration of the Sabbath day, and profane swearing; to protect the person of those residing within said city; to appoint, when necessary or ad-

visable, a police force, permanent or temporary; to assist the chief of police in the discharge of his duties; to build, purchase or lease and use a suitable place within or near said city for safe keeping or punishment of persons charged with, or convicted of the violation of ordinances; to provide for the employment of persons convicted of violation of ordinances, or who may be committed in default of payment of fines, penalties or costs, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the city, and to use such means to prevent their escape, while at work, as they may deem expedient; to erect or authorize or prohibit the erection of gas works, electric light works, or water works, within the city limits; to prevent injury to such works, or the pollution of any gas, or water used or intended to be used by the public or by individuals, and to do all things necessary to adequately supply said city and the inhabitants thereof with pure, healthful and wholesome water; to use, generate, distribute, sell and control electricity and gas for heat, light, and power, and to furnish light for the streets, houses, buildings, stores and other places in and about said city; to establish and construct wharves and docks, and to repair, alter or remove any wharf or dock, which has been or shall be so constructed, and to establish and collect rates and charges for the use thereof; to regulate the running and speed of engines, cars, and all other vehicles within said city; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or other supplies for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of all telephone, telegraph, electric light or other poles within said city and the extension of any wires, lines and poles by any individuals or corporations; to grant and regulate all franchises in, upon, over and under the streets, alleys, and public ways of said city, under such restrictions as shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise be granted for a longer period than fifty years; to create by ordinance such committees, or boards, and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessment of the taxable property therein, including dogs kept in said city, and provide a revenue for the city for municipal purposes, and appropriate such revenues for its expenses, and generally to take such measures, as may be deemed necessary or advisable, to protect the property, public or private, with-

in the city; to preserve and maintain peace, quiet and good order therein and to preserve and promote health, safety, comfort and well being of the inhabitants therein.

The council of said city shall have power and authority to provide for the granting of building permits; to cause the removal of all unsafe walls or buildings; and may upon the petition of the person or persons owning the greater amount of frontage abutting on any street between any two cross-streets or on any square in said city, prohibit the erection on such street, or in such square, of any building, or of any addition to any building, more than ten feet high, 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 addition which shall have been erected contrary to such prohibition, at the expense of the owner or owners thereof; in addition to the powers herein mentioned the council shall be vested with all powers that are now or may be conferred upon such council in this state by general law, not repugnant to the provisions of this act.

(Senate Bill No. 12.)

CHAPTER 87.

AN ACT to amend and re-enact the act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and nine, entitled, "an act to amend the charter of the town of Princeton, and incorporate the same as the city of Princeton."

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 25, 1913.)

SEC.

1. The city of Princeton.
2. Corporate limits.
3. Boundaries of wards.
4. Municipal authorities.
5. Exercise of corporate powers.
6. Subordinate officers.
7. Eligibility of officers.
8. Election of officers.
9. Who are voters.
10. Registration of voters.
11. General election.
12. The vote, how decided.
13. Contested elections.
14. Vacancy in office.
15. Appointment of additional officers and defining their duties and fixing compensation for such officers.
16. Bond.
17. Oath of office.
18. Tenure of office.

SEC.

19. Ineligibility or failure to qualify.
20. Powers and duties of mayor.
21. Powers and duties of recorder.
22. Quorum.
23. Record of minutes and ordinances.
24. Reading of minutes.
25. Who shall vote in council.
26. Meetings of council.
27. To whom money of city shall be paid.
28. Duties and powers of council.
29. Mayor's docket.
30. Annual levy.
31. Annual assessment.
32. Lien for taxes.
33. Collection of taxes.
34. Additional duties of treasurer.
35. License.
36. Condemnation of land for public use.
37. Provisions for bonding city.

<p>SEC. 38. No indebtedness to be created for current expenses. 39. Streets, roads and bridges. 40. Existing ordinances. 41. Power to make and maintain sidewalks, streets, etc. 42. The duty of the council to ap-</p>	<p>SEC. point officers to hold elections hereunder. 43. Duties of city attorney. 44. Where money to be deposited. 45. Salaries of various officers. 46. Repeal of inconsistent acts and ordinances.</p>
---	---

Be it enacted by the Legislature of West Virginia:

That the charter of the city of Princeton, in the county of Mercer, as passed by the legislature of West Virginia, February twentieth, one thousand nine hundred and nine, be amended and re-enacted so as to read as follows:

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

Corporate Limits.

Sec. 2. The corporate limits of the city of Princeton shall be as follows, that is to say: Beginning at the bridge where the Raleigh and Kanawha turnpike crosses Gladly Fork, and thence running down Gladly Fork to Brush creek; thence down Brush creek to the mouth of Board Camp branch; thence due east crossing the center line of the Deepwater railroad, as shown by the map and profile of the location of said road filed in the office of the clerk of the county court of Mercer county, West Virginia, on the twenty-third day of March, one thousand nine hundred and four, to a point fifty feet beyond said center line at right angles thereto; thence parallel to the center line of the location of said railroad as shown upon said map, and fifty feet distant therefrom to Christian Fork, which is a point eastward from the residence of William Oliver; thence a straight line to the old Alvis mill on Brush creek; thence a straight line to the residence of Elliott Blankenship, including said residence within the corporate limits; thence a straight line, including the residence of said Blankenship within the corporate limits as aforesaid, touching the residence of Saunders Lewis and including the same within the corporation to a point in the center line of the Raleigh and Kanawha turnpike road; thence a straight line touching the residence of I. W.

Walker and including the same within the corporate limits to Gladly Fork; thence down the same to the beginning.

Boundaries of Wards.

Sec. 3. The said city shall consist of five wards, which shall be bounded as follows:

First Ward.

Beginning at a point in the southern corporate line of said city where the Princeton-Ingleside road touches said corporate line; thence with the center of said Ingleside road to the center of Main street; thence with the center of Main street to the intersection of Main street with Mercer street at the center thereof; thence with center of Mercer street to the intersection of Mercer street with Honaker avenue, or Hearn alley; thence with the center of Honaker avenue, or Hearn alley to the center of North Walker street; thence with the center of North Walker street to the center of the Raleigh road as shown on the city map of said city; thence with the center of said Raleigh road to the northern corporate line of said city; thence with said northern corporate line in a western direction, to the northwest corner of said corporation; thence with said corporate line in a southern direction to the southwest corner of said corporate line; thence with said corporate line to the place of beginning; shall constitute the first ward.

Second Ward.

Beginning at a point in the line of ward number one formed by the intersection of the center of Mercer street with the center of Honaker avenue, or Hearn alley; thence with the line of ward number two along Honaker avenue, Walker street and Raleigh road to the northern corporate line of said city; thence in an eastern direction with said corporate line to the center of Park avenue; thence in a southern direction along the center of Park avenue to the intersection of Park avenue with Mercer street; thence with the center of Mercer street to the point of beginning; shall constitute the second ward.

Third Ward.

Beginning at a point in the line of ward number two where said corporate line touches the center of Park avenue; thence along the center of said Park avenue with the line of ward number two to the center of Mercer street; thence in an eastern direction with the center

of Mercer street to the end of Mercer street near the right-of-way of the Virginian Railway Company; thence continuing in an eastern course a straight line to the nearest point to the center of Brush creek; thence with the center of Brush creek to the northern corporate line of the city of Princeton; thence with said northern corporate line to the place of beginning; shall constitute the third ward.

Fourth Ward.

Beginning at the beginning point to ward number one; thence with the line of ward number one along the center of said Ingleside road to Main street; thence along Main street to the intersection of Main streets with Mercer street; thence along the center of Mercer street with the line of wards numbers one, two and three to Brush creek; thence with Brush creek in a southern direction to the corporate line of said city; thence with the corporate line to the place of beginning; shall constitute the fourth ward.

Fifth Ward.

Beginning at a point in the center of Brush creek at the mouth of Board Camp branch, and in line of ward number four; thence in an eastern direction to a point; thence continuing with said corporate line with its various meanderings to where said northern corporate line touches the center of Brush creek, which is a point in the line of ward number three; thence with Brush creek to the point of beginning; shall constitute the fifth ward.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Princeton shall consist of a mayor, a recorder, two councilmen at large, and one councilman from each of the five wards, who shall constitute the council.

Exercise of Corporate Powers.

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

Subordinate Officers.

Sec. 6. The mayor shall nominate, and, by and with the advice and consent of the council, shall appoint a superintendent of streets, city engineer, who shall be the same person as superintendent of

streets, chief of police, city attorney, and all other officers whose offices may be established by ordinance of the council, and such officers shall hold the respective offices to which they are appointed during the pleasure of the council and until their successors are appointed and qualified. The several offices, or any two or more of them, may be held by the same person, and such officers shall receive such compensation as the council may prescribe, by ordinance or order, and the same shall not be increased or diminished during the term for which the appointment was made.

Eligibility of Officers.

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

Election of Officers.

Sec. 8. On the first Tuesday in May, one thousand nine hundred and thirteen, and every two years thereafter, on the first Tuesday in May, there shall be elected by the qualified voters of said city a mayor, recorder, treasurer, and two councilmen, and by the qualified voters of each ward one councilman. The term of office of said mayor, recorder, treasurer and councilman shall be for the period of two years, commencing on the first day of June next after their election, and until their successors shall be elected and qualified.

Who are Voters.

Sec. 9. Every male person residing in said city shall be entitled to vote for all officers elected under this act, but no person who is a minor or of unsound mind or a pauper or who is under conviction of treason, or bribery in an election, or who has not been a resident of this state for one year and of said city for six months next preceding the election at which he desires to vote shall be permitted to vote therein.

Registration of Voters.

Sec. 10. Chapter forty-five of the acts of the legislature of West Virginia for one thousand nine hundred and eleven, shall be applicable to the registration of voters within the corporate limits of the city of Princeton, and the powers conferred upon the county court in said

act shall be and are hereby conferred upon the council of the city of Princeton, except that the fee paid the registrars shall be five cents per name, instead of ten cents as in said act provided.

General Election.

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

Tie Vote, How Decided.

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

Contested Elections.

Sec. 13. All contested elections shall be heard and determined by the council in existence at the time the election is held, and the con-

test shall be made and conducted in the same manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall as nearly as practicable, conform with like proceedings of the county court in such cases.

Vacancy in Office.

Sec. 14. Whenever a vacancy from any cause shall occur in any office, the council shall by a majority vote of those present fill such vacancy.

Appointment of Additional Officers and Defining Their Duties and Fixing Compensation for Such Officers.

Sec. 15. The council shall also have authority to provide by ordinance, for the appointment of such other officers as shall be necessary and proper, to carry into full force and authority the power, capacity, jurisdiction and duties of said city, which are or shall be vested therein, or in the council, or in the mayor, or any other officer or by body of officers thereof, and to grant to the officers so appointed the power necessary or proper for the purposes above mentioned. The council by ordinance shall define the duties of all officers so appointed or elected as aforesaid, and may provide them a reasonable salary, which shall be payable out of the city treasury, which salary shall not be increased or diminished during their term of office, and shall require and take from all of them whose duty it shall be to receive its funds, assets or property, or have charge of the same, such bonds, obligations, or other writing as they shall deem necessary or proper to insure the faithful performance of their several duties. All officers elected may be removed from office for malfeasance, non-feasance or misfeasance by the council; any appointed officer who holds his office at the pleasure of the council, may be removed from his office for cause, after due notice. The chief of police shall have all power, rights and privileges within the corporate limits of said city in regard to the arrest of persons, the collection of claims and the execution and return of process that can be legally exercised by a constable of a district within this state; and may without having any warrant or other process therefor, arrest any person who commits any offense against the laws of this state or infraction of the ordinances of said city, in his presence. He shall be *ex officio* the keeper of the city jail, and have charge of the city prisoners confined therein, and may confine any person arrested by him in the city jail until such time as the charges against such person can be inquir-

ed into by the mayor. Any person fined by the mayor for infraction of any of the ordinances of the city may pay such fine to either the mayor or the chief of police; and the said chief of police and his sureties shall be liable for all fines, penalties and forfeitures that a constable of a district is liable for in the same court that the said fine, penalties and forfeitures are now recovered against a district constable. It shall be the duty of the treasurer to collect the city taxes, licenses, levies, assessments, and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state taxes, and he shall in all other respects have the same powers as a sheriff to enforce the payment and collection thereof.

Bond.

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

Oaths of Office.

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

Tenure of Office.

Sec. 18. The mayor, recorder, treasurer and councilmen, and all other elected officers shall enter upon the duties of their offices upon the first day of June next after their election, and continue for the period of two years, and all appointed officers shall enter upon the duties of their offices as soon as they have qualified; and all officers, both elected and appointed, shall remain in office until their successors are elected or appointed and qualified, or until removed therefrom in the manner prescribed by law.

Ineligibility or Failure to Qualify.

Sec. 19. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to qualify as herein required, the council shall declare his said office vacant and proceed to fill the vacancy as required by this act.

Powers and Duties of Mayor.

Sec. 20. The mayor shall be the chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be *ex officio* a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the city unless the defendant resides or is found therein and process therein served upon him. He shall have the same power to issue attachments in a civil suit as a justice of his county has, but in such case he shall have no power to try the same, but such attachment shall be made returnable and heard before a justice of the peace of his county. Any warrant or other process issued by him may be executed at any place in the county. He shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, and may suspend any police officer until the next regular meeting of the council. And it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may arrest or cause the arrest and detention of all violators of the laws of this state and ordinances of the city, before issuing his warrant therefor if the offense is committed in his presence. He shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate

payment thereof, and in default of such payment he may commit the party in default to the jail of the county of Mercer or other place of imprisonment, used by said corporation, if there be one, until the fine or penalty and the costs be paid, but the term of imprisonment in such cases shall not exceed thirty days. And in all cases when a person is sentenced to imprisonment, or to the payment of a fine of ten dollars or more, (and in no case shall a judgment for a fine be for less than ten dollars if the defendant, his agent, or attorney object to a less fine being imposed), such person shall be allowed an appeal from such decision, to the criminal court of the county of Mercer, upon the execution of an appeal bond with security deemed sufficient by the mayor, and the cost in the criminal court in case said judgment be affirmed, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the criminal court on such appeal. If such appeal be taken the warrant of arrest, if any, a transcript of the judgment, the appeal bond and other papers in the case shall be forthwith delivered by the mayor to the clerk of said court, and the court shall proceed to try the case as upon an indictment or presentment, and render such judgment, including costs, as the law and the evidence may require. The mayor shall from time to time recommend to the council such measures as he may deem needful to the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except it be to answer to an indictment, shall be paid by the city and taxed as costs against the defendant.

Powers and Duties of Recorder.

Sec. 21. The city recorder shall keep an accurate record of the proceedings of the council, and have charge of and preserve the records of the city, and in case of the absence from the city or in case of the sickness or inability of the mayor to act, or during any vacancy in the office of mayor, he shall perform such duties of the mayor as pertained to him as chief executive of the city, and be vested with all powers necessary for the performance of such duties, but shall not be vested with any of the authority of the mayor pertaining to civil suits. He shall be a conservator of the peace within the city.

Quorum.

Sec. 22. The presence of a majority of the council shall be necessary to make a quorum for the transaction of business.

Record of Minutes and Ordinances.

Sec. 23. The council shall cause to be kept by the recorder, in a well bound book to be called the "minute book," an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called "ordinance book," accurate copies of all general ordinances adopted by the council; both of which shall be accurately indexed and open to inspection of any one required to pay taxes in the city, or who may be otherwise interested therein. All oaths and bonds of officers in the city, and all papers of the council shall be endorsed, filed and securely kept by the recorder. The bonds of officers shall be recorded in a well bound book to be called "record of bonds." The recorder shall perform such other duties as by ordinance of the council may be prescribed. The transcripts of ordinances, acts, orders and resolutions certified by the recorder under the seal of the city, shall be admissible in evidence in any court or before any justice.

Reading of Minutes.

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

Who Shall Vote in Council.

Sec. 25. The mayor and recorder shall have votes as members of the council, and in case of a tie the presiding officer for the time being shall have the casting vote.

Meetings of Council.

Sec. 26. The regular meetings of the council shall be publicly held at such times and at such places in the city, as they shall from time to time ordain and appoint; and it shall be lawful for the council by ordinance, to vest in any officer of the city, or in any member or number of members of their own body, the authority to call special meetings and prescribe the mode in which notice of such special meetings shall be given. If a majority of the members of council do not attend any regular or special meetings, those in attendance shall have authority to compel the attendance of absent members under such reasonable penalties as they may think proper to impose by or-

dinance. All questions put to a vote except such matters as herein-after provided for shall be decided by a majority of the members present.

To Whom Money of City Shall be Paid.

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

Duties and Powers of Council.

Sec. 28. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads and streets, alleys, pavements, sidewalks, crosswalks, drains, sewers and gutters therein, for the use of the citizens and the public and to improve and light the same, and keep them free from obstructions of every kind; to regulate the width and kind of pavements and sidewalks, footways, drains and gutters and cause the same to be kept in good order, free and clean by the owners and occupants of the real property next adjacent thereto; to establish markets, prescribe the time for holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling of said markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter houses, tan houses and soap factories within the city limits, or the exercise of any unhealthful or offensive business, trade or employment; to abate all nuisances within the city limits or to compel the abatement or removal thereof at the expense of the person causing the same or by or at the expense of the owner or occupant of the ground on which said nuisance is placed or found; to be filled up, raised or drained, by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals, and fowls of all kinds from going or being at large in such city, and as one means of prevention to provide for impounding or confining such animals and fowls at the expense of the owner thereof, and upon the failure of the owner to reclaim, for the sale thereof; to protect places of divine worship and to preserve order in and about the premises

when and where such worship is held; to regulate the keeping and sale of gunpowder and other inflammable or dangerous substances; and to provide for the regular building of houses or other structures and to provide for the kind of material to be used in the construction thereof, and for the making and maintaining of division fences by the owners of adjoining property, and for the proper drainage of city lots and other parcels of land by or at the expense of the owner or occupant thereof; to provide against danger or damage by fire; to punish assault and battery; to prohibit the keeping or loitering in or visiting houses of ill fame, or loitering in saloons or upon the streets; to prevent lewd or lascivious conduct, the sale or exhibition of indecent pictures or papers or other representations; to prevent adultery and fornication; to prohibit the carrying of concealed or dangerous weapons within the corporate limits of said city; to punish drunkenness; to punish larceny where the amount stolen is less than twenty dollars; to prevent gambling and the keeping and using of slot machines and gaming devices; to prohibit anything against good morals and common decency and to fix punishment therefor; to prevent the desecration of the Sabbath day, profane swearing, the illegal sale of intoxicating drinks, mixtures or preparations; to protect the person of those residing or being in said city; to appoint, when necessary or advisable, a police force, permanent or temporary, to assist the chief of police in the discharge of his duty, and who when appointed, to have the same power and authority in and about the arrest of offenders, as the chief of police may have; to build or purchase, or lease a suitable place of imprisonment within said city, for the safe keeping or punishment of persons charged with or convicted of a violation of the ordinances of the city, or they may adopt the county jail of Mercer county for the purpose; to erect or authorize or prohibit the erection of gas, water works, or electric works or all of them within the city limits, or near the same; to require any company or person furnishing gas, electricity or water to said city for the inhabitants thereof, to put in standard meters for the measurement thereof and may appoint any person to inspect the meters and remove the same, if not standard and in good order; to prevent injury to such works, or the pollution of any gas or water used or intended to be used by the public or any individual; to require the extension of gas and water lines by such respective companies, to any and all parts of the said city when the said council may deem the same necessary; to provide for and regulate the weighing of hay, coal, lumber, and other articles sold or kept within said city, and to establish rates and charges

for the weighing and measuring thereof; to create by ordinance such committees and delegate such authority thereto as may be necessary or advisable; to provide for the annual assessment of taxable property therein and for the revenue for the city for municipal purposes and to appropriate such revenue to its expenses; and generally to have power to take such measures as are deemed necessary or advisable to protect persons or property, public or private within the city; to preserve peace, quiet and good order therein and to promote the health, safety, comfort and well being of the inhabitants thereof; to organize one or more fire companies and provide necessary apparatus, tools, implements, engines, or any of them, for their use, and in their discretion to organize a paid fire department; to make regulations with respect to the erection and location of telephone, telegraph, electric light or other poles by any individual or corporation; to grant and regulate all franchises in, upon, over and under the streets, alleys and public ways of said city, under such restriction as shall be provided by ordinance, but no exclusive franchise shall be granted by said council to any individual or corporation, nor shall any franchise be granted for a longer period than fifty years.

The council shall have authority to pass all ordinances not repugnant to the constitution and laws of the United States, and of this state, which shall be necessary and proper to carry into full effect the power, authority, capacity and jurisdiction which is or shall be granted to or vested in the said city, or in the council, or in any officer or body of officers of said city, and to enforce any and all of the ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders, and upon the failure to pay any fine or penalty imposed may compel the offender to labor without compensation at and upon any of the public works or improvements undertaken or to be undertaken by said city, or to labor at any work which the said council may lawfully employ labor upon, at such reasonable rates per diem as the council may fix, until any fine, or fines and costs upon any offender by said city have been fully paid and discharged, after deducting reasonable charges of support while in the custody of the officers of the city; *provided, however*, that no fine shall be imposed exceeding thirty dollars and costs, and that no person shall be imprisoned or compelled to labor as aforesaid, for more than thirty days for any one offense. And in all cases where a fine is imposed for an amount exceeding ten dollars and costs or a person be imprisoned, or be compelled to labor as aforesaid for a greater term than ten days,

an appeal may be taken from such decision, upon the terms and conditions as appeals are taken from the judgment of a justice of this state. Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced, by and under the judgment of the mayor of said city, or in case of his absence or inability to act, by the recorder of said city, or if he be unable to act, then by any member of the council to be appointed by the council for that purpose; and for his services in trying cases, whether civil, criminal or infractions against ordinances of the city, the mayor shall be entitled to charge and collect such fees as are paid to justices of the peace for similar services, all which fees shall be paid to the city treasurer at the end of each month, taking proper vouchers therefor, and in all such cases the chief of police, or other officer performing the service shall be entitled to receive such fees as are paid to constables for similar services, which shall likewise be paid to the city treasurer at the end of each month, taking proper vouchers therefor; *provided, further,* that the fee for making any arrest shall be one dollar, whether such officer be the chief of police or other officer. In addition to the powers above enumerated, the said city council shall have power to build, construct, maintain and operate a sufficient sewerage system and water works, as may be necessary for the proper supply of water to the inhabitants of the said city, for both public and private use, and said city shall have the power to purchase or condemn any water works now in the said city or hereafter placed therein by any party other than said city, whenever the council of said city shall deem proper, and such order shall have been ratified by a vote of the qualified voters of said city, at an election called for that purpose, with due notice, and at least two-thirds of the votes cast at said election shall vote for the ratification of the order of said council to purchase or condemn said water works; and the said city shall have the power to enlarge the said water works, if so purchased or condemned, by putting additional reservoirs either within or out of said city; and the said city shall have the right, if its council shall deem proper, and the order of said council be ratified by vote as aforesaid, to build, construct, maintain, and operate such water works in the said city as may be deemed proper without the purchase or acquisition of any water works then in said city; and said city shall have the right to lay pipes and mains for the proper distribution of said water, either in or out of said city, as shall be necessary for the proper distribution of same, and for that purpose may acquire by lease,

purchase or condemnation all such land as shall be necessary, either within or without the said city, or they may contract for such work to be done, in either event to supply adequate supply of pure healthful water for said city and do all things necessary to supply the said city and the inhabitants thereof with water as aforesaid; and the said city may acquire by purchase or condemnation, any electric light plant now in said city or hereafter placed therein by any party other than said city, and shall have the right to build, construct, maintain and operate such plant for furnishing electricity for said city, and for the inhabitants thereof, but no electric light plant shall be purchased, condemned, or built or operated unless voted on by the qualified voters of said city at an election called and held as aforesaid, and the same be ratified by a two-thirds vote of all votes cast at said election. Whenever anything for which a state license is required is to be done in said city, the council may require a city license therefor and may impose a tax thereon, for the use of said city, and whenever said city license is granted by the council, for the sale of spirituous, vinous or malt liquors, or drink of like nature, the county court may grant a state license for the sale thereof within the corporate limits of said city, but no state license therefor shall be granted within said city, by the county court or within four miles of the corporate limits thereof, unless the council thereof first grants a city license. The council shall require from every person so licensed to sell spirituous, vinous or malt liquors, a bond with good security, to be approved by the council, in a penalty of at least three thousand dollars, payable to said city, by its corporate name, conditioned as prescribed in section twenty-two of chapter thirty-two of the code of West Virginia, and may revoke such license at any time the conditions of said bond are broken, upon ten days' previous notice to the person holding the same. And suits may be prosecuted and maintained on such bond as prescribed in said section of said chapter, by any person for the same causes, in the same manner, and to the same extent as upon the bonds mentioned in said section and all provisions of said section in relation to the bonds required by this section in addition to the powers herein mentioned, the council shall be vested with all powers that are now or may be conferred upon such council in this state by general law, not repugnant to the provisions of this act.

Mayor's Docket.

Sec. 29. A well-bound book, indexed, to be denominated the "mayor's docket," shall be kept in the office of the mayor, in which

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

Annual Levy.

Sec. 30. The council shall be governed in all respects in laying the annual levy, or any additional or special levy, by chapter nine of the acts of the extraordinary session of the legislature of West Virginia, one thousand nine hundred and eight, except that they may include a poll tax of not exceeding one dollar each year, upon each able-bodied man therein, who is above the age of twenty-one years and not over fifty years of age; which poll tax shall be used exclusively for opening, improving and maintaining roads, streets and alleys of the city, and shall designate the same as the "street tax;" and the said council may also impose such license tax upon dogs and other animals as they deem proper, and collect the same from the owners of such animals, as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of such tax on animals, as they may deem reasonable.

Annual Assessment.

Sec. 31. It shall be the duty of the treasurer to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council on or before the first day of June of each year, and for this purpose he shall have all the powers conferred by law upon county assessors. He shall list the number of dogs and other animals subject to license tax in the city, and the names of the persons owning the same, which list shall be returned to the council at the same time his assessment books are returned. But in making his assessment on real and personal property he shall be governed by the assessment on real and personal property for state and county purposes for said year, and the value placed on said property shall not exceed the value of such assessment for county and state purposes. In order to aid the assessor in ascertaining the property subject to taxation by said city, he shall have access to all books and public records of said Mercer coun-

ty without expense to him or said city, and he shall have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation in said city, as are granted and imposed on the county assessors throughout the state by general law; and the council shall have authority to prescribe by general ordinance, such other rules and regulations as may be necessary to enable and require such treasurer to ascertain and properly assess all property liable to be taxed by said city, so that such assessment and taxation shall be uniform and equal, and the council may enforce such rules and regulations by reasonable fines to be imposed on any one failing to comply therewith. He shall make two copies of his assessment books each year, and extend the taxation in each book and deliver the same when completed and sworn to, to the city council, one of which shall be retained in the office of the recorder, and the other returned to said treasurer, the council taking proper receipt therefor.

Lien for Taxes.

Sec. 32. There shall be a lien on all real estate within the said city for the city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof, by the authorities of said city, including expenses for making sidewalks and streets from the time the same are so assessed or imposed, which shall have priority over all the other liens except taxes due the United States and the lien for taxes due the state, county or district, and such lien may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes.

The treasurer or collector of taxes on the first Monday in July next succeeding the year for which such taxes were assessed shall make out and return to the council two alphabetical lists, one a list of real estate, and the other a list of persons and property other than real estate, in the city delinquent for the non-payment of taxes thereon for such year, and shall subscribe an oath to each list in form and effect as sheriffs are required to make to delinquent lists returned to county courts, and the council shall not give the treasurer or collector credit for any uncollected taxes unless the same have been abated as prescribed herein, or are mentioned in such lists. If any real estate within said city be returned delinquent for the non-payment of taxes thereon, and such return shall be made by the treasurer or collector thereof, in the manner aforesaid, a copy of such delinquent list shall be certified by the city council to the auditor of the state, and the

same shall be sold for taxes, interest and commissions thereon in the same manner and at the same time and by the same officer as real estate is sold for the non-payment of state and county taxes. A copy of said delinquent list, within ten days after it has been certified by the city council, shall be filed in the office of the clerk of the county court of Mercer county, and recorded in a well bound permanent book to be furnished by the city and kept and preserved in said office for that purpose. *Provided, however,* that a copy of each of said lists shall be posted at the front door of the court house of Mercer county at least two weeks before said lists are returned to the city council. And a copy of said lists shall at the same time be printed for one time in two newspapers of opposite politics, if such there be in said city; *provided,* such newspapers will publish the same at a cost not exceeding five cents to each newspaper for each person and for his delinquencies, the cost thereof to be paid out of the city treasury.

Collection of Taxes.

Sec. 33. It shall be the duty of the city treasurer when the extended copies of the assessor's books are completed, to receive a copy thereof, receipting to the council for the same, and it shall be his duty to collect from the parties the entire amount of the taxes with which they are severally charged therein, and may proceed to collect the same at any time after the first day of August, and may enforce the payment thereof by levy upon the personal property and sale thereof, of the person so charged with taxes at any time after the first of October next, after said taxes are assessed; said taxes shall be a lien upon the property upon which they are assessed, from and after the time the assessor's books are completed, verified and returned to the city council, and he shall write the word "paid" opposite the name of each person who pays the taxes against him and shall also give to the person paying such taxes a receipt therefor; *provided, however,* that said treasurer may distrain at any time, for any taxes assessed against a person who is about to remove or who has removed from said city after such taxes are assessed, and the books returned as aforesaid. He shall also receive such other moneys of the city as he is authorized by this act to receive, and also all moneys ordered by the council to be paid to him, giving receipt therefor to the parties paying the same, and shall keep an accurate, itemized account of all money received by him, and his books shall at all times be open for the

inspection of the mayor, council, city recorder and to any taxpayer of the city. He shall also make up monthly statements of the money received by him and the amount paid out by him and to whom, showing the amount in his hands from all sources, and shall post the same in the mayor's office on the last day of each month. He shall pay out the money in his hands only upon the order of the city council, upon orders signed by the mayor and the recorder. He shall on or before the expiration of the term of office of the mayor, and at such other times as the council may require, present to the council a full and complete statement of all the moneys with which he is chargeable or that have been received by him and not previously accounted for, and shall at the same time, in like manner, furnish a complete statement, by separate items, of all disbursements made by him during such period, with his vouchers evidencing the same. He shall receive all taxes upon licenses and receipt to the party paying the same, by endorsement upon the permit granted by order of the council, or mayor as the case may be. He shall upon the expiration of his term of office turn over to the council all books and other property in his possession belonging to the city, except the money in his hands, which he shall turn over to his successor upon the order of the council, as hereinbefore provided; and shall, before entering upon the duties of his office, execute a bond with good security payable to said city in a penalty of not less than ten thousand dollars, conditioned that he will faithfully discharge the duties of his office and account for and pay over as required by law and the orders, ordinances, rules and regulations of the council of said city all money which shall come into his hands, which bonds shall be subject to the approval of the council. He shall be chargeable with all the city taxes, levies and assessments and money of the city, which shall come into his hands and shall account therefor.

Additional Duties of Treasurer.

Sec. 34. In addition to the other duties of the treasurer, it shall be his duty on or before the first day of August, in each year, to make a copy from the real and personal property books of the assessor of Mercer county of all property shown to be liable for taxes within the limits of the city of Princeton, and to certify such under his hand as a true and correct copy thereof, and to deliver the same to the council, to assist said council in preparing the annual estimate of

expenses to be certified as a basis for the annual levy. After such annual levy is made in each year, it shall be the duty of the treasurer to extend said levy upon said real estate and personal property books for said city, and to prepare proper tax tickets therefrom against all owners of real estate and personal property subject to taxation in said city.

License.

Sec. 35. The council shall prescribe by ordinance the time and manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to the city treasurer before the delivery thereof to the person applying therefor. The council may revoke any such license for a breach of any of the conditions or for other good cause shown, but the person holding such license must first have reasonable notice of the time and place of hearing and adjudicating the matter, as well as the cause alleged; and shall be entitled to be heard in person or by counsel, in opposition to such revocation. The term for which license provided for in this charter shall be granted shall be governed by general law providing for state license.

Condemnation of Land for Public Use.

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

Provisions for Bonding City.

Sec. 37. The council of the said city shall have the right to bond the said city for the purpose of paving the said streets, or for other permanent improvement, whenever the council thereof may deem the same necessary, but the aggregate indebtedness of the said city for all purposes shall never at any time exceed five per centum of the assessed valuation of the taxable property therein according to the last assessment next preceding said date, and the said council shall

provide a fund for the payment of the interest annually on the said indebtedness so created and to pay the principal thereof within and not exceeding thirty-four years; *provided*, that no debt shall be contracted hereunder, unless all questions connected with the same be first submitted to a vote of the qualified voters of said city, and have received three-fifths of all of the votes cast for and against the same.

No Indebtedness to be Created for Current Expenses.

Sec. 38. The council of the said city shall not at any time or for any purpose, create any indebtedness against the said city except as provided in the next preceding section, exceeding the available assets of the said city for the current year, and if the said council shall create such indebtedness or issue orders on the said city for an amount exceeding the amount of money collected for that year for said city from all sources and the amount of money then in the treasury appropriated, the members of said council shall be severally and jointly liable for the payment of the excess of such indebtedness or orders over the amount of money applicable thereto, and the same may be recovered in any court having jurisdiction thereof.

Provided, however, this shall not be applicable to such members who have voted against said excess; and, *provided, further*, that the vote of each member of council shall be recorded.

Streets, Roads and Bridges.

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

Existing Ordinances.

Sec. 40. All ordinances, by-laws, resolutions and rules of the city of Princeton in force on the day preceding the passage of this act, which are not inconsistent therewith, shall be and remain in full force over the whole boundary of said city of Princeton, as established by this act, until the same are amended or repealed by the council of said city, and the officers elected on the first Tuesday in May, one thousand nine hundred and twelve, in the city of Princeton shall remain in office until their successors under this act are elected and qualified as hereinbefore provided, and after this act takes effect shall have jurisdiction over all the territory embraced in the boundary

specified in this act, and shall perform all the duties of such respective officers under this act; but nothing in this act shall be construed or held to in any way affect or impair any of the bonds, obligations or indebtedness of the city of Princeton issued or contracted prior to the passage of this act, but on the contrary, the said city of Princeton shall be liable for all the bonds, obligations and indebtedness of the city of Princeton as though the same had been created under this charter.

Power to Make and Maintain Sidewalks, Streets, Etc.

Sec. 41. The council shall have power to provide for the construction of sidewalks upon the streets of the city, and assess the expense of the construction of the same upon the property abutting thereon and the owners thereof and collect the same in the same manner as other taxes and levies are collected, and shall have power to macadamize and pave the streets of the said city, or any of them, and assess part of the expenses of macadamizing and paving not to exceed one-third thereof upon the abutting property on each side thereof, and the owners thereof, and collect the same in the same manner as other taxes and levies are collected, and such assessments for sidewalks, macadamizing and paving shall be a lien upon such abutting property, the same as other taxes and levies within said city upon the property therein. *Provided*, that nothing herein shall be construed to prevent the council from arranging for the construction of any such improvement, by agreement with the abutting property owners, if the council shall so desire and deem it advisable to do so.

The Duty of the Council to Appoint Officers to Hold Elections Hereunder.

Sec. 42. The council of the city of Princeton shall provide places for voting in each ward in all municipal elections of the city, and appoint commissioners residing therein to hold and conduct the election hereinbefore provided to be held, and shall pass all proper ordinances to give this act full force and effect.

Duties of City Attorney.

Sec. 43. The city attorney shall be the legal adviser of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceed-

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

Where Money to be Deposited.

Sec. 44. It shall be the duty of the city treasurer to keep all funds of the city in some bank or banks within said city, which shall pay interest on such deposits and on the average daily balances of such funds of the per cent equal, at least, to that paid by state depositories on all funds of the state of West Virginia and in the same manner and at the same time. If no bank within said city is willing at any time to receive deposits of the treasurer and pay such interest thereon, the treasurer shall report this fact to the council, whereupon the council shall designate the bank or banks in which he shall deposit said funds for the time being, and until some bank in said city will receive such deposits on such terms.

Salaries of Various Officers.

Sec. 45. Each of the officers mentioned in this section shall receive from the city to be paid out of the city treasury, an annual salary as follows: Mayor, eight hundred dollars; recorder, four hundred dollars; treasurer, eleven hundred dollars; councilmen, one hundred dollars. There shall be deducted from the salary of the mayor, recorder, and each of the councilmen two dollars and fifty cents for each meeting of the council from which said mayor, recorder or councilman shall be voluntarily absent.

Repeal of Inconsistent Acts and Ordinances.

Sec. 46. All ordinances of the city of Princeton as they exist at

the time of the passage of this act, which are inconsistent therewith, are hereby abrogated, and all acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.

(Senate Bill No. 40.)

CHAPTER 88.

AN ACT to amend and re-enact section nineteen of chapter eighty-three of the acts of one thousand nine hundred and eleven, of the legislature of West Virginia, entitled, "an act to amend and re-enact chapter sixty-six of the acts of one thousand nine hundred and three, and chapter four of the acts of one thousand nine hundred and seven, extraordinary session of the legislature, incorporating the city of Parkersburg, in the county of Wood, and repealing all acts and parts of acts inconsistent or in conflict therewith."

(Passed February 7, 1913. In effect from passage. Approved by the Governor February 12, 1913.)

SEC.

19. Council may cause streets or alleys to be paved; how done;

SEC.

when and how paid for; lien on property to secure payment.

Be it enacted by the Legislature of West Virginia:

That section nineteen of chapter eighty-three of the acts of one thousand nine hundred and eleven be amended and re-enacted so as to read as follows:

Sec. 19. The council of the city may cause any street or alley or part thereof, to be paved with cobblestone, brick, concrete or other suitable material, curbing and suitable sidewalks laid, and a sewer or sewers to be constructed therein, or to have such paving done without the construction of such sewer or sewers, or a sewer or sewers constructed without such paving, under such regulations not inconsistent with the provisions of this section as shall be fixed by council, upon the lowest and best terms to be obtained by the council by advertising for bids or proposals therefor, and the whole cost thereof (which cost shall include the cost and expense of preliminary and other survey, of printing and publishing all notices required to be published in relation thereto, and of cost of construction) shall be

assessed to and paid by the owners of the lots or fractional parts of lots abutting or abounding on that part of the streets so improved, paved or sewerred and against the said lots or fractional parts of lots in proportion to the number of feet frontage owned by each. *Provided*, that the cost of paving and sewerred intersections of streets and public alleys, and the proportion for lots, or parts of lots, or property against which no assessment can be legally made shall be assessed to and paid by the city; and, *provided, further*, in case of a street or public alley occupied by street car tracks or other railway, the cost of paving the space between the rails, and for two feet additional outside each rail, shall be assessed to and paid by the street car or other railway company (unless otherwise provided by the franchises of such street car or other railway company granted previous to the time this act goes into effect.)

The amount so assessed against such abutting lots or fractional parts of lots to the said abutting property owners, the city and street car or other railway company, as aforesaid, respectively, shall be paid in ten payments as follows: that is to say, one-tenth of said amount, together with the interest at the rate of six per centum per annum from the acceptance of the work by the city on the whole assessment, shall be paid to the city on or before the first day of May next after the work is accepted, 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 installment shall bear interest at the rate of six per centum per annum from the date of its maturity, and moreover, to each installment remaining unpaid on the days herein specified for the payment thereof a penalty of ten per centum of said installment shall be added and collected by the city; *provided, however*, that any abutting property owner, the city, or street car or other railway company, against whom or against whose property, said assessments have been made, shall have the right at any time after such assessments shall have been certified to the superintendent of the department of accounts and finance for collection, as hereinafter provided, to anticipate any or all of such assessments and shall be allowed to pay the face of said assessments with interest only to the time of payment.

(a). The sum or sums of money so assessed, together with the interest and penalty aforesaid, for paving or sewerred, or other said improvements, shall be a lien upon the lots or fractional parts of

lots, and in case of a street car or other railway company, upon its tracks for the distance of said improvement, from the date of acceptance of said work by the city, and said lien shall have priority over all other liens except those for taxes due to the state and shall be on a parity with the taxes and assessments due the city; *provided, however,* such assessments shall after six months from the date of the acceptance of said work cease to constitute liens against said property as against creditors of the owners thereof or purchasers thereof for value without actual notice of such liens, unless within said six months a statement of said liens, certified as hereinafter provided, shall be filed for record in the office of the clerk of the county court of the county in which such property is situated.

(b). Immediately upon the acceptance of the work by the city the clerk shall make out bills for the sums of money assessed as aforesaid against the property owners aforesaid, and shall at the same time make and certify a statement of the assessments aforesaid in which shall be given the location of the real estate affected, the name of the owner, the date of the acceptance of said work by the city, and the amount of the assessment, and it shall be sufficient description of the location of said real estate to describe it as abounding or abutting upon said improvement included between the termini of said improvement, or by the description by which it is described on the land books of the county in which said lots are situated, and shall cause said statement to be immediately recorded in the office of the clerk of the county court of the county in which such property is situate, and it shall be, and it is here made the duty of said county clerk, to record said statement in the trust deed books in the name of the city and also in the name of each person against whose property said assessments appear therein, and said clerk shall be paid for recording said statement the same fees as for recording deeds of trust. And said bills for said assessment shall be charged to the superintendent of the department of accounts and finance and immediately certified and delivered to him for collection.

(c). Upon default being made in the payment of any installment of the assessments aforesaid, the same shall be immediately reported to the council by the superintendent of the department of accounts and finance, and the council shall forthwith refer the same to such officer as it may deem expedient, for collection, and payment of said delinquent installments, with the interest and the penalty aforesaid, may be enforced in all respects as provided for the collec-

tion of city taxes, or the lien aforesaid may be enforced by a suit in equity in the name of the city and any court having jurisdiction thereof, and the said delinquent assessments, or any installment thereof, may be collected from the person against whom the same were assessed by action at law before any court or a justice of the peace having jurisdiction thereof.

(d). Immediately upon the completion and acceptance of any of the work aforesaid, constructed by virtue of this section, the council shall direct the clerk to cause to be prepared a notice which shall name and describe the location of the street or alley upon which said work shall have been constructed; give the names of the owners of each lot or fractional part of lot abutting or abounding upon said street or alley, and also the name of any street car or other railroad company having tracks upon said street or alley, where assessed for paving, if known, and if the name or names of the owner or owners of any lot or fractional part of lot, or of such street car or other railway company, are unknown, such lot or fractional part of lot, and the location of the paving assessed to such street car or other railway company, shall be described with reasonable certainty so that the same may be identified. The number of feet that each lot or a fractional part of lot abuts upon said street or alley, the street or alley intersections and all abutting city property, and property not liable to assessments, and the number of square feet or yards to be paid for by said street car or other railway company, also the amount assessed against each lot or fractional part of lot, and also the amount assessed against the city, as well as the amount assessed against any street car or other railway company, shall be stated. Said notice shall cite all owners of lots or fractional parts of lots abutting upon the streets or alleys aforesaid, and also said street car or other railway company, to appear before the council at a regular meeting thereof within thirty days from the first publication thereof and show cause, if any they can, why the assessments aforesaid should not become final, which notice shall be published once a week for two successive weeks in one or more newspapers of general circulation published in said city, and affidavits of the publishers of such notices showing the publishing thereof as herein provided, shall be recorded in the minutes of the council at their next regular meeting. The council shall, upon the request of any one or more of the owners of said lots or fractional parts of lots, or of said street car or other rail-

way company, appoint a day for hearing the grievances of said owner or owners, street car or other railway company, and may correct or amend any assessment made against them or any one of them for good cause shown. The clerk shall give notice to all persons claiming to be injured by said assessment of the time and place of hearing said matters, which meeting shall be held within ten days after the expiration of the thirty days mentioned in said notice. The council may adjourn the hearing from time to time. In case any owner or owners of abutting property, or street car or other railway company, fail to complain of any damage or injury they may have, or may suffer, by reason of the assessments aforesaid and shall fail to appear for the purpose of having the same corrected, the assessments as to them as laid shall be final, and the said assessments shall then be recorded in the book in which the plans, specifications, profiles and estimates are recorded under the provisions hereof and next following the same therein. The findings of said council shall be conclusive. The rights conferred by this section are cumulative and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

(e). Whenever it is deemed expedient by the council to provide for paving, sidewalks, curbing or sewers in or upon any of the streets or alleys of the city by the issue and sale of bonds of the city, it shall by resolution entered of record on the minutes of its proceedings so declare and thereupon the city shall be and is hereby empowered and authorized to issue its bonds for the purpose of providing for paving, laying sidewalks, curbing the streets and alleys of the city and of constructing sewers for the proper drainage of said city, in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, and upon street car and other railway companies occupying the said streets or alleys with tracks, and such bonds may be in such amount as shall be sufficient to pay the entire cost and expense of said improvements for which such special assessments are levied; and said city is also authorized to sell said bonds; *provided*, that the price for which they are sold shall not be below the par value of said bonds; said bonds shall be payable 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 semi-annually, and in the issuance and sale of said bonds the city shall be governed by all the restrictions and limitations of the constitution of this state and so far as not in conflict with the pro-

visions of this section by the restrictions and limitations of this state with respect to the issuance and sale of other bonds; and the assessments, as paid and provided for in this section, shall be applied to the liquidation of said bonds and the interest thereon and to that end paid to the trustees of the sinking fund of the city to be by them invested for the best advantage of the city, anything in any general or special statute of the state notwithstanding to the contrary; and if by reason of penalties collected with the delinquent installments there may be any balance after the payment of said bonds and all accrued interest and costs, the said bonds shall be turned into the city treasury to the credit of a fund for street improvements for said city and used for no other purpose; *provided*, that the city shall not by the sale or issue of such bonds cause the aggregate of its debts of every kind whatsoever to exceed five per centum of the value of the taxable property therein; and, *provided, further*, that nothing herein contained shall be construed as authorizing said city to become indebted in any other manner or for any other purpose to an amount including the existing indebtedness in the aggregate, exceeding two and one-half per centum of the value of the taxable property therein (as provided in chapter fifty-one of the acts of one thousand nine hundred and five), except for the purpose of constructing paving, curbing, sewers and sidewalks in and upon the streets and alleys of said city, as provided in this section; nor shall said city 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 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 the grading, paving, sewerage or otherwise improving the streets and alleys of the city, under the provisions of this section, 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 should 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 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.

(f). It is especially provided that no bonds shall be issued under

the provisions of this section, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fifths of all votes cast at said election for or against the same. The council may provide by ordinance for an election every year, at which the question shall be submitted to the people as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this section, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, and notwithstanding the provisions of section two, three and six of chapter forty-seven-a of the code, it shall be sufficient description of the purpose for which said election is held if the ordinance calling the same shall cite that it authorizes the council to issue bonds for the purpose of paving, curbing, laying sidewalks or sewerage the streets and alleys of said city, at such times as to the council shall seem fit during the ensuing year ending on the.....day of....., 19.., to an amount not exceeding in the aggregate during said year the sum of \$.....; and when the council shall have once been authorized by a vote of the people to issue bonds for the said purpose and to a sum not to exceed the amount set forth in the ordinance calling the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance calling said election, but the council shall from time to time during said ensuing year by ordinance authorize the issue of said bonds, in such sums, and for the improvement of such streets and alleys as to it may seem best, providing the requirements of this section are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said 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 section, apply to the annual bond elections and special bond elections herein provided for.

(g). Whenever it is deemed expedient by the council to provide for paving, curbing, sidewalks or sewers, or any other improvements

on any of the streets or alleys of the city, in whole or in part, either by the issue of bonds theretofore authorized as herein provided or by the appropriation of funds in the city treasury not otherwise appropriated, it shall first, having on file in the city clerk's office plans, specifications, profiles and estimates of the proposed improvements, showing the proposed grade of the street or alley after completion with reference to the abutting property, declare by resolution the expediency of the work; and said plans, specifications, profiles and estimates shall be open to public inspection.

Said resolution shall determine the general nature of the work, the method of paying for the same, whether by an appropriation from the funds in the treasury not otherwise appropriated or whether or not the bonds theretofore as in this section provided should be issued and sold; said resolution shall be complete in the form in which it is finally passed and remain on file with the city clerk for public inspection one week before the final passage or adoption thereof. Immediately upon the filing of said resolution with the clerk, a copy thereof shall be published once in two newspapers of general circulation, and of opposite politics, in the city, and affidavits of the publishers of said newspapers, showing the publication, with a copy of the notice attached, shall be spread upon the minutes of the meeting of the council at which said resolution is passed or adopted. In case two such newspapers will not publish said resolution, or in case only one will so publish it, it shall be published in the one and posted at the front door of the building where the council holds its meetings on the day it is filed as aforesaid, and affidavit thereof shall be recorded in the minutes of the council at the next regular meeting.

Until said resolution is finally passed, the council shall hear all persons interested in relation thereto at any regular meeting, and if it decides to proceed with the improvement, it shall pass said resolution. And then said council may by resolution correct or amend said plans, specifications, profiles and estimates and approve and adopt them as so corrected, or as they were in their original form, as to it may seem proper; and said plans, specifications, profiles and estimates shall be forthwith filed with the city clerk and by him recorded and attested in a well bound and permanent record book to be kept in his office. Both resolutions shall be in effect when finally passed.

The council may then adopt and pass ordinances for said purposes

which shall provide generally the character of the work, make appropriation for the payment thereof, fix the time of payment of assessments therefor and the manner of giving notice of said assessments and correcting the same and providing for advertisements for bids for said work; shall also set forth the streets and alleys upon which the property is to be assessed for said improvements, the general character of materials which may be bid upon therefor, the mode of payment and a reference to the resolutions theretofore passed for said improvements, giving the date of passage, and a statement of the intention of council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles providing for such improvements.

In any case where the council has determined to pay for any of such improvements out of funds in the city treasury not otherwise appropriated, and not by the issuance and sale of bonds, said ordinance shall be passed and become and be effective as provided in section twelve of this chapter; but in the event it has been determined to issue and sell bonds for the payment thereof, the said ordinance shall not be effective so as to permit any contract to be made or work to be done thereunder until, in addition to the compliance with the provisions of section twelve, the fact that the proceeds of the sale of said bonds have been received by the city shall be certified by the superintendent of the department of accounts and finance and such certificate entered upon the minutes of the council.

(h). When the whole or any portion of the improvement authorized by this section passes through or by a public wharf, market space, park, cemetery, structure for the fire department, water works, school building, infirmary, market house, work house, hospital, house of refuge, bridge, gas works, public prison, court house, church, or any other public structure or public grounds, within said city, and belonging to said city, or to the county, state, board of education, or any church association or eleemosynary institution, the council shall direct the proper proportion of the cost and expenses of the improvements to be certified to the clerk of the county court of the county wherein said city 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 collectable as other assessments are collected against individuals under this section 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.

(i). All acts or parts of acts, whether special or general, which are in conflict with the provisions of this act, so far as they may apply to the city of Parkersburg, are to that extent repealed, except that said city may continue to lay sidewalks as heretofore authorized, and nothing herein contained shall in anywise affect or impair the right of the city to enforce the collection of any and all paving, sewerage or sidewalk bills or assessments heretofore issued, laid or levied by said city by virtue of any authority heretofore had by it.

(Senate Bill No. 45.)

CHAPTER 89.

AN ACT to incorporate the city of Keyser in the county of Mineral, West Virginia, defining the powers thereof and describing the limits of said city, and to repeal all acts and parts of acts inconsistent with the provisions of this act.

(Passed February 3, 1913. In effect from passage. Approved by the Governor February 20, 1913.)

SEC.		SEC.	
1.	The city of Keyser; powers defined.	20.	Licenses.
2.	Corporate limits.	21.	Franchises.
3.	Election precincts.	22.	Mandamus.
4.	Qualification of voters.	23.	Pavements and sidewalks.
5.	Registration of voters.	24.	Nuisances.
6.	Municipal authorities; primary and general election.	25.	Lien for taxes, etc.
7.	Contested elections.	26.	Health, health commissioner.
8.	Council.	27.	Ordinance, general provision.
9.	Citizens' committee.	28.	Ordinance to be in writing and not changed, when.
10.	The mayor.	29.	Ordinances and votes shall be recorded, etc.
11.	Departments of city government; salaries.	30.	Duties of city clerk.
12.	Meetings of council.	31.	Duties of the treasurer.
13.	Improvements, ordinances and franchises.	32.	Duties of city attorney.
14.	Qualification of mayor and councilmen.	33.	Police department.
15.	Oath of officers.	34.	Duties of the street commissioner.
16.	General powers of council.	35.	Power to condemn.
17.	Municipal authority.	36.	Recall.
18.	Assessment and collection of taxes.	37.	Initiative.
19.	Bonds.	38.	Referendum.
		39.	Petitions.
		40.	Election to adopt or reject charter.
		41.	Acts repealed.

Be it enacted by the Legislature of West Virginia:

The City of Keyser.

Sec. 1. That the inhabitants of so much of the county of Mineral as is within the boundaries 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 and style of "the city of Keyser," and as such, and by that name may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, and choses in action, or any interest, right or estate therein, either for the proper use of said city, or in trust for the benefit of any person or corporation therein; and the same may grant, sell, convey, transfer, let, lease and assign, vledge, mortgage, charge and encumber in any case, and in any manner, in which it would be lawful for a private individual so to do, subject to the limitations and provisions of the constitution of the state; and may have and use a common seal and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to like corporations in this state, and shall have and succeed to all powers, franchises and immunities, rights and privileges which were conferred upon or belonged or appertained to the town of Keyser by virtue of any act or acts of the legislature of this state heretofore passed; and shall have all the rights, privileges, capacities and powers provided by chapter forty-seven of the code of West Virginia, as contained in the edition of the year one thousand nine hundred and six, and amendments thereto, and for which provision is not herein otherwise expressly made. All general and special laws of the state of West Virginia, governing cities, towns and villages, and now applicable and not inconsistent with the provisions of this act, shall apply to and govern the city of Keyser. All by-laws, ordinances and resolutions lawfully passed and in force in the town of Keyser, as heretofore constituted, and not inconsistent herewith, shall remain in force until altered or repealed by the council elected under the provisions of this act, and shall extend to and over the whole of the city of Keyser as embraced in section two of this act, and all valid ordinances enacted and now in force in the town of South Keyser, as heretofore constituted, shall remain in full force and effect therein, until the mayor and council shall have been elected and qualified under the first election provided by this act, at which time all of said ordinances shall *ipso facto* be repealed. All rights and property heretofore vested in said towns of Keyser and South Keyser are continued and preserved, and no right or liability, either in favor of or against

either of them, existing at the time, and no suit or prosecution of any kind, shall be affected by such change, unless otherwise provided for in this act, and the said city of Keyser shall succeed to all the rights and liabilities of the towns of Keyser and South Keyser, and it shall be liable for all the debts and obligations of said towns in the same manner and to the same effect as if such indebtedness had been created by the said city of Keyser.

Corporate Limits.

Sec. 2. The corporation limits and boundaries of said city shall be as follows, to-wit: Beginning at a large double poplar on the northwest side of, and at the mouth of White's run where it empties into the North branch of the Potomac river, standing north $35^{\circ} 45'$ E. 236 feet from the north end of the Baltimore and Ohio railroad culvert over said run, and running thence up the river with and near the state line of West Virginia and Maryland, north 12° W. 462 feet to a sugar at a bend of the river; north $46^{\circ} 37'$ W. 600 feet to a large black oak; north 36° W. 225 feet to a large black oak, with double ash pointers; north $61^{\circ} 15'$ W. 241.5 feet to a large maple, with sassafras and water birch pointers on the bank of the main branch of the river; south $86^{\circ} 23'$ W. 589 feet to a double elm; thence leaving the river, south $36^{\circ} 43'$ W. 516 feet passing main tracks of Baltimore and Ohio railroad, at 266 feet, their inspector's house at 406 feet, the Piedmont road at 466 feet, leaving said railroad company's lands to a stone on a hillside on the W. A. Liller lands; thence along said hillside, south 8° E. 1,186 feet to a stone in a hollow in Liller's orchard near a spring, standing south $50^{\circ} 30'$ W. 64 feet from a pointer marked ash tree, and 140 feet from and at right angles to the southerly side of Piedmont street; thence, parallel to said street, south 51° E. 1,355 feet to a stone standing in the line of said Liller and Randall Harrison, 140 feet southerly from said street; thence leaving Liller and crossing Harrison and F. M. Reynolds vineyard tract, south $5^{\circ} 20'$ W. 1,060 feet to the corner of Reynolds and Hctzel's addition to Keyser, in the old T. B. Davis, or Sheetz and McCarty line; thence along it crossing White's run, and the road leading up the mountain to Elk Garden, south $31^{\circ} 45'$ E. 1,363 feet to a stone in this line by a large post on a hill, corner of Babb, Smith and Trout heirs land; thence leaving said line and with the division line of Babb and Smith, south $36^{\circ} 33'$ W. 1,265 feet to a large post, formerly corner of the T. B. Davis and

T. R. Carskadon lands; thence along their line, now Babb and others, south $50^{\circ} 42'$ E. 1,267 feet passing a set stone, corner of the Davis and Carskadon lands at 1,021 feet, to a stone in the westerly line of an alley at the rear of the lots fronting on Mineral street; thence with said line of said alley, south 48° W. 1,273 feet leaving the same at 1,060 feet crossing a street and running on the Carskadon lands, to a stone on the southerly side of Carskadon run; thence down and along said run with the southerly side of Carskadon lane crossing New creek pike at 1,152 feet, New creek at 1,214 feet, south $48^{\circ} 56'$ E. 2,094 feet to two chestnuts and a stone on the mountain, on the Carskadon lands; thence along the mountain leaving said lands at 1,435 feet crossing J. R. Carskadon and Taylor land, north $50^{\circ} 30'$ E. 4,375 feet to two maples, a locust and stone on the Joseph Arnold land, at the northeast end of a bench of the mountain; thence along the side of the mountain passing H. Vernon's corner at 930 feet, south $69^{\circ} 12'$ E. 1,400 feet to a set stone on a hillside with two chestnut oak pointers, south of Arza Furbee's house; thence north $77^{\circ} 30'$ E. 857 feet crossing the Headsville road and the Twin mountain and Potomac railroad at the end of this line to a black walnut stump at the west edge of Limestone run: thence down along the run, north $7^{\circ} 55'$ W. 123 feet; north $8^{\circ} 50'$ E. 277.5 feet to a point at the edge of the water; thence down and with the same passing under the county road bridge and the Baltimore and Ohio railroad, through a culvert, north $37^{\circ} 07'$ W. 256 feet to the mouth of said run where it empties into the north branch of the Potomac river at the upper side of "lovers leap," at the state line of West Virginia and Maryland; thence up and with said state line, the direct lines being, south $70^{\circ} 10'$ W. 380 feet; north 58° W. 486 feet; north 30° W. 293 feet crossing the mouth of New creek at 148 feet; north $32^{\circ} 56'$ W. 250 feet; north $34^{\circ} 30'$ W. 650 feet; north 6° W. 708 feet; north $38^{\circ} 17'$ W. 196 feet; north $60^{\circ} 23'$ W. 169.2 feet passing the Western Maryland railroad bridge at 26 feet to the center of the south end of the Keyser and McCoolle highway bridge; north $59^{\circ} 30'$ W. 1,188.6 feet; north 73° W. 800 feet to a three pronged willow at the edge of the water; north $68^{\circ} 10'$ W. 686 feet to a large sycamore tree: north 63° W. 1,837 feet to a large poplar; thence north $43^{\circ} 45'$ W. 666 feet to the beginning.

Election Precincts.

Sec. 3. The territory of said city shall be divided into such

number of election precincts to include such territory as the council shall by ordinance adopt and fix, but for the purposes of the first primary and general election to be held under this act the several election precincts heretofore established in the town of Keyser and the town of South Keyser shall constitute the election precincts for holding said first primary and election.

Qualification of Voters.

Sec. 4. Every registered voter qualified by law to vote for a member of the legislature of the state, and who shall have been a resident of said city for six months preceding the day of election, and is a *bona fide* resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held in said city by or under the corporate authorities thereof. For the first primary and election hereunder those qualified voters resident in election precincts wherein elections were held for a member of the legislature in the year one thousand nine hundred and twelve, and at which no municipal election is held under this act, shall be regarded as residents of the municipal election precinct nearest to their actual residence.

Registration of Voters.

Sec. 5. The registration of voters provided for under the general laws of the state shall be adopted in the city of Keyser, so far as applicable, and the council shall appoint registrars who shall have authority to register such persons who have moved into the municipality at least six months preceding an election and who are otherwise qualified to vote. Registration books shall be prepared under the direction of the city clerk and furnished to the judges of the election, and all the provisions of the general law relating to the registration of voters shall apply in said city so far as applicable.

Municipal Authorities—Primary and General Election.

Sec. 6. For said city, there shall be elected at the regular municipal election to be held on the Tuesday after the first Monday in June, one thousand nine hundred and thirteen, a mayor and three councilmen who shall hold their office for two years and until their successors are elected and qualified, except that the two councilmen elected, who shall receive the lowest number of votes, shall hold their office for one year, and on the Tuesday after the first Monday in June, one thousand nine hundred and fourteen, there shall be held

an election for the purpose of electing two councilmen as their successors, who shall hold their office for two years and until their successors are elected and qualified, and thereafter, on the Tuesday after the first Monday in June in the succeeding year, a mayor and one councilman shall be elected and in the next succeeding year, on the Tuesday after the first Monday in June, two councilmen shall be elected, and in like manner thereafter, who shall hold their office for two years and until their successors are elected and qualified.

If any vacancy occurs in any such office, the remaining members of said council shall appoint a person to fill such vacancy during the balance of the unexpired term.

Said officers shall be nominated and elected at large, and they shall qualify and their terms of office shall be two years and until their successors are elected and qualified, and shall begin on the first day of July after the election. The terms of office of the mayor, councilmen and recorder in the town of Keyser and the town of South Keyser, in office at the beginning of the terms of office of the mayor and councilmen first elected under the provisions of this act, shall then cease and determine, and the terms of office of all other elective or appointive officers in force in such towns, except as hereinafter provided, shall cease and determine as soon as the council shall by resolution declare.

Candidates to be voted for at all general municipal elections at which a mayor and one councilman, or at which two councilmen are to be elected, under the provisions of this act, shall be nominated by a primary election, and no other name shall be printed upon the general ballot except those elected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Tuesday preceding the general municipal election. The judges of election shall be appointed by the council for the general municipal election, who shall be the judges of the primary election, and it shall be held at the same place, so far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election. The council of the town of Keyser, as constituted at the passage of this act, shall appoint the judges for the first primary and general elections to be held hereunder, but the council of South Keyser, as constituted at the passage of this act, shall have the right to nominate the judges for the first primary and general elections to be held

hereunder for the election precinct embraced within the territory of South Keyser.

Any person desiring to become a candidate for mayor or councilman shall, at least ten days prior to said primary election, file with the city clerk a statement of such candidacy, in substantially the following form:

State of West Virginia, Mineral county, ss:

I,, being first duly sworn, say that I reside at.....street, city of Keyser, county of Mineral, state of West Virginia; that I am a qualified voter therein; that I am a candidate for nomination to the office of (mayor or councilman) to be voted upon at the primary election to be held on the.....Tuesday of May, 19.., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed).....

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

(Signed).....

And shall at the same time file therewith the petition of at least ten qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

Petition Accompanying Nominating Statement.

The undersigned, duly qualified electors of the city of Keyser, and residing at the places set opposite our respective names hereon, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at the primary election to be held in such city on the.....Tuesday of May, 19... We further state that we know him to be a qualified elector of said city and a man of good moral character, and qualified, in our judgment, for the duties of such office.

Names of Qualified Electors. Number. Street.

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said city clerk shall cause to be published in the newspapers published in the city, in proper form, the names of the persons as they are to appear upon the primary

ballot; and shall cause copies of said list of names, as published, to be forthwith posted in at least ten conspicuous places in said city; and the said clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballot the names of the candidates for mayor, arranged alphabetically, shall first be placed, with a square at the left of each name and immediately below, the words "vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for councilmen, with a square at the left of each name, and below the names of such candidates shall appear the words "vote for one." The ballot shall be printed upon plain, substantial white paper, and shall be headed:

"Candidates for nomination for mayor and councilmen of the city of Keyser, at the primary election." but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(Place a cross in the square preceding the names of the parties you favor as candidates for the respective offices.)

OFFICIAL PRIMARY BALLOT.

Candidates for nomination for mayor and councilmen of the city of Keyser at the primary election.

For Mayor.

[] (Name of candidate.)

(Vote for one.)

For Councilman.

[] (Name of candidate.)

(Vote for one.)

Official ballot, attest:

Signature....., City Clerk.

At the first primary the direction shall be printed below the names of the candidates for councilmen, "vote for three," and in those years in which only two councilmen are to be elected, the ballot shall be headed:

"Candidates for nomination for councilmen of the city of Keyser at the primary election," and below the names of the candidates for councilmen shall be the direction "vote for two."

Having caused said ballot to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at

the last general municipal election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election.

All candidates before the primary may meet at least two days preceding the primary election and a majority thereof may select two challengers for each precinct whom they shall certify to the judge of election and the judge shall in such case appoint such persons certified as the challengers. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk before nine o'clock A. M. of the following day. On the day following the said primary election the council shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said city at least once, the result thereof. Said canvass shall be publicly made. In those years in which a mayor and one councilman are to be elected, the two candidates receiving the highest number of votes for mayor shall be the candidates and the only candidates whose names shall be placed upon the ballot for mayor at the next succeeding general municipal election, and the two candidates receiving the highest number of votes for councilmen, or if such candidate if less than two, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilmen at such municipal election; and in those years in which two councilmen are to be elected, the four candidates receiving the highest number of votes for councilmen, or all such candidates if less than four, shall be the candidates and the only candidates whose names shall be placed upon the ballot for councilmen at such municipal election. At the first election under this act, the six candidates receiving the highest number of votes for councilmen shall be placed upon the ballot for councilmen at such election. In the event of the death or resignation of a nominee before the election, the candidate receiving the next highest number of votes at the primary shall be placed on the ticket in his stead.

The ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable. All

elections, of whatsoever kind, held under this act, shall be conducted, returned and the result thereof ascertained and declared in the manner prescribed by the laws of the state relating to elections in so far as they are not in conflict or inconsistent with the provisions of this act.

For the first primary and general election held under this act, the duties herein required of the council of the city of Keyser shall be performed by the council of the town of Keyser, and the duties herein required to be performed by the city clerk, shall be performed by the recorder of the town of Keyser, and contests in such case shall be heard and determined by the council of the town of Keyser.

Contested Elections.

Sec. 7. All contested elections shall be heard and decided by the council, and the contest shall be made and conducted in the same manner as provided for in such contests for county and district offices; and the council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Council.

Sec. 8. Said city shall be governed by a council, consisting of the mayor and three councilmen chosen as provided in this act. Each of said councilmen shall have the right to vote on all questions coming before the council, but the mayor shall have no such right. The three members of the council, or the mayor and two members of the council, shall constitute a quorum, and the affirmative vote of two members shall be necessary to adopt any motion, resolution or ordinance or pass any measure. Upon every vote the yeas and nays shall be called and recorded, and every resolution or ordinance shall be reduced to writing and read before the vote is taken thereon.

Citizens' Committee.

Sec. 9. Whenever moneys are to be raised and procured for public improvements by the issuance and sale of bonds, or whenever application is made to the city for a public franchise, the mayor shall, before any action is taken relating to the issuance of such bonds, or the granting or refusing of such franchise, by and with the consent and approval of the council, appoint seven citizens of said city who shall have been actual residents therein for five years next preceding their appointment and who have been assessed with and paid taxes on at

least one thousand dollars worth of property therein for the year preceding their appointment, to act in conjunction with the council, and as a part thereof, in the consideration and determination of all matters and questions pertaining to the issuance of such bonds, or the granting or refusing of such franchises. Each of said citizens shall have a vote in the council upon all questions relating to or arising out of the matters for which they were appointed, including the awarding of contracts, expenditure of the money and auditing and approving the accounts therefor. The said citizens shall receive such compensation as the council may prescribe, take the same oath prescribed for councilmen and shall serve until all of the work for which such money was raised and procured, is fully completed, and the accounts of expenditures thereof finally audited and approved; or until such franchise has been granted or refused.

The Mayor.

Sec. 10. The mayor shall preside at all meetings of the council; he shall have power to veto any resolution or ordinance, passed by the council, and every resolution or ordinance so passed must be signed by him, or by the three councilmen, and be recorded before the same shall be in force. After the passage of any ordinance or resolution by the council, the ordinance or resolution shall be presented to the mayor for his approval or disapproval, and at the next regular meeting of the council, he shall return the same with his approval endorsed thereon, or accompanied by his veto and his reasons therefor reduced to writing and if he endorses his approval thereon, or fails to return the same as herein provided, such ordinance shall have full force and effect, but if accompanied by his veto and his reasons in writing the same shall have no force or effect but shall stand as reconsidered in the council. The objection of the mayor shall be entered at large upon the journal of its proceedings, and the council shall proceed to consider the question which shall be in form: "Shall the ordinance or resolution pass, the objection of the mayor thereto notwithstanding?" The vote on the question shall be taken by yeas and nays and shall require the affirmative vote of all three members of the council to pass such resolution or ordinance over the veto of the mayor. Should such ordinance or resolution fail to receive the affirmative votes of all three members of the council, when returned accompanied by the veto and objections of the mayor thereto, it shall be null and void, but if it receive the affirmative vote of the three members of the council, it shall thereupon

become and be in full force and effect to the same extent as if it had received the approval of the mayor.

The mayor shall be superintendent of the department of public affairs and public safety, and he shall, at the first regular meeting of the council, by and with the consent and approval of the council, designate one councilman to be superintendent of the department of accounts and finance, one to be superintendent of the department of streets, alleys, parks, public improvements and public property, and one to be superintendent of the department of water works and sewers; but such designation, including that of the mayor as superintendent of the department of public affairs and public safety, shall be changed whenever it appears to the council that such change is necessary or advisable.

The mayor shall at said first meeting nominate, and by and with the consent of the council, shall appoint a city clerk, street commissioner, chief of police, city attorney, treasurer and such other officers and assistants, including regular policemen, as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city; all of said officers shall hold office during the term of the mayor by whom they are appointed and until their successors are appointed and qualified, unless sooner removed by the council. Any officer, assistant or employe, elected, appointed or employed may be removed at any time by a vote of a majority of the members of the council, under such regulations as the council may prescribe. Should the mayor fail or refuse to transmit to the council nominations for any or all appointive offices for two successive meetings of the council, after he shall have qualified, or for two successive meetings after the council has refused to confirm any nomination made by him, the council shall fill such office or offices.

The mayor shall be the chief executive officer of the city, and he shall, except as otherwise herein provided, see that the laws and ordinances of the city are enforced; that the peace and good order of the city are preserved; he shall be president of the council and preside at its meetings, and shall supervise all departments and report to the council for its action all matters requiring attention in any department, and he shall perform such other duties and services as the council may ordain, in addition to the duties prescribed in this act, and not inconsistent therewith. The superintendent of the department of accounts and finance shall be vice president of the council, and in case of vacancy in the office of mayor, or the absence or inability of the mayor, shall perform the duties of mayor.

Departments of City Government—Salaries.

Sec. 11. The council shall have and possess, and the council and its members shall exercise all executive, legislative and judicial powers conferred upon cities, towns and villages by the general law of the state and by this act.

The executive and administrative powers, authority and duties in said city shall be distributed into and among four departments as follows:

1. Department of public affairs and public safety.
2. Department of accounts and finance.
3. Department of streets, alleys, parks, public improvements and public property.
4. Department of water works and sewers.

The council shall determine the powers and duties to be performed by, and assign them to the appropriate department; shall prescribe the powers and duties of officers and employes, may assign particular officers and employes to one or more of the departments; may require an officer or employe to perform duties in two or more departments; and may make such other rules and regulations as may be necessary or proper for the efficient and economical conduct of the business of the city.

The council shall have power from time to time to create and discontinue offices and employments other than herein prescribed, according to their judgment of the needs of the city, and may, by resolution or otherwise, prescribe, limit or change the compensation of such officers or employes.

The mayor and councilmen, and every other officer or assistant, shall receive such salary or compensation as the council shall by ordinance provide, payable in equal quarterly installments. The salary or compensation of all other employes of said city shall be fixed by the council and shall be payable at such periods as the council may determine.

Meetings of Council.

Sec. 12. Regular meetings of the council shall be held on the first Tuesday of July in each year, and thereafter at least twice each month. The council shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two councilmen. All meetings of the council, whether regular or special, at which any person not a city officer is admitted, shall be open to the public.

Improvement Ordinances and Franchises.

Sec. 13. Every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which it finally passes, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges or public places in said city shall be granted, renewed or extended, except by ordinance. No franchise shall be granted for a period exceeding thirty years, and no amendment or addition thereto shall extend beyond the termination of the original franchise.

Qualification of Mayor and Councilmen.

Sec. 14. No person shall be mayor or councilman who has not for two years next preceding his election, been a resident within the city of Keyser, and who has not been assessed with and paid taxes upon at least five hundred dollars worth of real or personal property.

Oath of Officers.

Sec. 15. All officers, elective and appointive, shall make oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer their respective offices with the aim to benefit any political party; and, in the case of councilmen, they shall add in their oath that they will not during their term of office become pecuniarily interested, directly or indirectly, in any contract with the city, or the purchase of any supplies therefor. When the officer shall have made such oath in writing and filed the same with the city clerk, and shall have given the bond required of and accepted from him, he shall be considered as having qualified for the office to which he was elected or appointed; *provided*, that if any person elected to the office of mayor or councilman shall not qualify for said office as herein prescribed within ten days after he shall have been officially declared elected thereto, said office shall *ipso facto* become vacant, and said vacancy shall be filled in the manner provided for in this act.

General Powers of Council.

Sec. 16. In addition to the powers conferred upon the council of

cities, towns and villages, by the general laws of the state and amendments thereto, and those herein elsewhere enumerated, the council of said city shall have plenary power and authority therein; to locate, vacate, lay off, close, open, alter, grade, straighten, widen or narrow, pave or repave, construct and keep in repair bridges, viaducts, under grade crossings, roads, streets, alleys, sidewalks, cross-walks, drains and gutters for the use of the public, or any of the citizens thereof, and to improve and light the same, and keep them clean and free from obstruction on or over them; *provided*, the municipality shall not be liable for or respond in damages for injury to persons or property caused by or from a defect or obstruction in or on the plat of ground between the gutter or curb of any street and the paved or plank sidewalk extending there along, or between any such sidewalk and the property lying next adjacent thereto, unless such municipality had actual notice of such defect or obstruction prior to the time of the injury complained of; to regulate the width of sidewalks and the streets, and the width and care of the public grounds or grass plots abutting thereon, and to order the sidewalks, footways, cross-walks, drains and gutters to be curbed and paved, or repaved and kept in good order, free and clean, and to provide for the removal of snow and ice therefrom, and for sprinkling the same, by the owners or occupants of the real property next adjacent thereto; and to require that all pavements shall be of uniform material, between any two cross streets; to regulate traffic on, and the use and occupancy of the streets, alleys, roads and highways of said city, and to regulate the speed of travel thereon of all vehicles, and to prohibit or regulate the use thereon of traction engines or other vehicles or loads causing injury to or unusual wear of the same, and to regulate the speed of engines or trains and street cars within the corporate limits, and to provide for the safety and convenience of the public on streets, alleys, roads, highways and railroad crossings, and to prevent the blocking of such crossings by trains; to regulate the erection, construction and location of telephone, electric light and other poles or structures, or conduits used to carry wires, and to cause the removal thereof from the surface of the streets and to require the wires to be placed under ground; to regulate the making of division fences and party walls by the owners of adjoining and adjacent premises and lots, and to regulate or require the drainage by the owner of such lots or other real estate by the proper drains, ditches and sewers, and to fill or cause to be filled any lot below the established ele-

vation or grade; to lay off, open, close, vacate or maintain public grounds, parks and public places, and name and re-name the same; to regulate the planting, trimming and preservation of shade trees, by persons and corporations, in streets, alleys, roads, public grounds and places, and to provide for the planting, removal, trimming and preservation of such trees and other ornamental shrubbery by the municipality; to establish, maintain and regulate free public libraries and reading rooms, and to purchase books, papers, maps and manuscripts therefor, and to receive donations, and bequests of money or property for the same, in trust or otherwise, and to provide for the rent and compensation for the use of any existing free public libraries established and managed by private corporation or association organized for that purpose; to protect divine worship in and about the premises where held; to regulate or prohibit street carnivals or street fairs, or street parades, advertising exhibitions or other exhibitions thereon, or the exhibition of natural or artificial curiosities; to regulate or prohibit the ringing of bells, blowing of steam whistles or use of hand organs or other musical instruments of an annoying character or other music of itinerant performers in the streets, roads, parks, or public places of the municipality; to license, regulate or prohibit auctioneering; to license or prohibit the sale of goods, wares and merchandise or of live animals at auction in the streets or other public places within the municipality; to regulate, license or prohibit the sale of goods, wares, merchandise, drugs or medicine on the streets or other public places; to prevent the illegal sale of intoxicating drinks, liquors, drugs and intoxicating mixtures of all kinds: to impose a license tax on persons keeping for hire automobiles, carriages, hacks, buggies, or wagons, or for carrying for hire persons or baggage in such vehicles; to establish and regulate hack stands and stands for automobiles, coaches, cabs and omnibuses kept on the streets for hire; to regulate or prohibit runners at railroad depots and stations and other places of assemblage of people; to regulate and assess and collect a license fee for the use of the municipality on any thing or business on which a state license is required, subject to the exemptions as provided in section thirty-two of the code: to establish, locate and keep in repair, market places and market houses, and regulate markets, prescribe the time for holding the same and to authorize the seizure thereat and destruction of any and all such goods and drink products as shall be found unwholesome, dangerous or offensive,

and without recourse against the municipality for its cost or value; to regulate the sale of all food and drink products, milk, fresh meats, fish and vegetables, and provide for the inspection of the same: to appoint market masters and invest them with power to make arrests for the violations of the municipal ordinances or regulations in their view, and to prevent regrating or forestalling; to regulate and provide for the weighing of hay, coal and other articles for sale in the market; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to regulate the keeping, handling and transportation of explosives and dangerous combustibles within the municipality; to regulate or prohibit the erection or maintenance in what council deems an improper locality within the municipality any blacksmith shop, livery stable, cow house, cattle pen, poultry house, pig pen, privy, bill board, sign boards, gas or other engines, or the use of walls or walks for signs, and to abate by summary proceeding whatever in the opinion of council is a nuisance; to regulate or prohibit the distribution of hand bills, circulars and other advertisements of like kind on the streets, roads, alleys and public places, or in private yards, buildings or other structures without first having procured the consent of the owner or occupier thereof; to prohibit within the municipality or within one mile of its corporate limits the erection or maintenance of any slaughter house, soap factory, glue factory, lamp black factory, tannery or other house, shop or factory of like kind or character; to establish, regulate and maintain public baths and bath houses, drinking fountains, water troughs and public toilet stations, and free public band concerts, and to regulate the time and place of bathing in pools, streams and public waters within the police jurisdiction of the municipal corporation; to prevent hogs, cattle, sheep, horses and other animals and fowls of all kinds from going at large in the municipality, and to establish and maintain places for their detention, make regulations respecting the same, and appoint a pound master and define his duties; to arrest, convict and punish any person for keeping an assignation house, house of ill fame, or for leasing or letting to another person any house or other building for the purpose of being used or kept as an assignation house or a house of ill fame, or for knowingly permitting any house owned by him or under his control to be used or kept as an assignation house or house of ill fame, or for loafing, boarding or loitering in a house of ill fame or frequenting the same; to arrest, convict and punish any person for importing, printing, puh-

lishing, selling or distributing any book, picture or device or other thing containing obscene language or picture or make an indecent representation; to restrain and punish vagrants, mendicants, beggars, tramps, common prostitutes, and their associates and drunken or disorderly persons within the municipality, and to provide for their arrest and manner of punishment; to establish a board of health and invest it with the necessary power to attain its object; to establish quarantine, to enforce compulsory vaccination or quarantine, and to erect and maintain pest houses and places of detention, within or without said city, and to make and enforce necessary orders for controlling or preventing the spread of infectious and contagious diseases and for abating pestilences; to prohibit and punish by fine the bringing into the corporate limits by railroads or other carriers, persons who are paupers, or persons afflicted with contagious diseases, or to punish by fine, or by fine and imprisonment, any person so bringing within the corporate limits such pauper or diseased person; to provide for the poor of the municipality, and to that end the municipality may contract with the county court of Mineral county for keeping of such poor persons, or any number of them, at the county poor house at a price and on such terms as may be agreed upon between the county court and the proper municipal authorities; to authorize the taking up and to provide for the safe keeping and education, for such periods of time as may be deemed expedient, of all children who are destitute of proper parental or other care and who are growing up in mendicancy, ignorance, idleness or vice; to establish and maintain, either within or outside of its limits, a house of correction or a house of refuge and a work house, or either of them, and, in the discretion of the municipality to place the same under the management and control of such directors, superintendents and other officers as the council may, by ordinance, provide. All children under the age of sixteen years, who shall be convicted of any offense made punishable by imprisonment under any ordinance of the municipality, or who shall be liable to be committed to prison under any such ordinance may be confined in such house of refuge, and may be there kept or apprenticed out under such rules as the municipality may prescribe, until they arrive at the age of eighteen years, unless for good cause sooner discharged. Any person over the age of sixteen years convicted of the violation of any ordinance of the municipality, and liable to be punished therefor by imprisonment, may in lieu thereof be committed to the house of correction or to the

work house, as may be provided by ordinance. The authorities of any house of refuge, established by such municipality, are authorized to appoint a committee of one or more of their number with power to execute and deliver on behalf of said authorities, deeds of apprenticeship for any inmate of said institution whom they deem a proper person for an apprenticeship to a trade or occupation, to such person as said committee, or the authorities may approve, and said deed shall have like force and effect as other deeds of apprenticeship under the laws of this state; a copy of every such deed shall be filed and kept in said institution by the superintendent thereof, and it shall not be necessary to file the same in any other place or office. When any inmate of said institution shall have been apprenticed and prove untrustworthy and unreformed, he or she shall be recommitted to the said institution to be held in the same manner as before said apprenticeship. The county court of Mineral county shall have the power to use said house of refuge or work house for children or persons of the age hereinbefore mentioned who shall be convicted in said county, in any court thereof, of any offense not of the grade of felony under the laws of this state; *provided*, said county court shall maintain its just proportion of the expense of such house of refuge or work house, to be levied for and paid out of the county treasury; to authorize the establishment and maintenance of juvenile courts, and to provide for the proper conduct of the same; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing, or overloading or over-driving, or wilfully depriving of necessary sustenance, any horse or other domestic animal; to restrain fraudulent practices within the municipality; to arrest, convict and punish any person for gambling or keeping any gaming table, commonly called faro bank table and chips used in playing such game; crap table or chips used in playing such game; or roulette or the wheel or chips used in playing such game; or keno table or table of like kind or device used in playing the same; or table of like kind under any denomination, whether the game or games be played with cards, dice or otherwise, or any person who shall be a partner, or concerned in interest in the keeping or exhibiting of such gaming table, faro bank table or chips, roulette table, or chips, crap table or chips, keno table or devices, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value, and to destroy such gambling paraphernalia as may be found in use on any such premises; to restrain all felons and persons guilty of offenses against this state or the United

States and deliver them over to the authority or court having jurisdiction of the offense whereof such person is accused; to apprehend and punish any person, who, without a state license therefor, is guilty of carrying about his person, within the municipality, any revolver or other pistol, dirk, bowie knife, slung shot, razor, billy, metallic or other false knuckles, or any other dangerous or deadly weapons of like kind and character as provided by chapter fifty-one of the acts of the legislature of one thousand nine hundred and nine, and the punishment therefor, whether for the first or other offense, shall be that prescribed by said chapter for any such person guilty under the misdemeanor clause provided therein, but the place of confinement of such guilty person may be in the jail or lockup of the municipality in lieu of the county jail; *provided*, that the police judge of the municipality or other person exercising the functions of his office, may, in his discretion, decline to inflict the punishment herein mentioned, and instead thereof may require or hold such guilty person to answer an indictment by the grand jury of Mineral county for the violation of said law; and it shall be the duty of the prosecuting attorney of such county when requested by the police judge of said municipality, to appear and prosecute such offending person before such police judge; *provided, further*, that regularly appointed police officers of the municipality whose services are rendered to and paid for by the municipality, shall not be required to give bond, or any bond, provided by said chapter fifty-one of the acts of the legislature of one thousand nine hundred and nine; to provide in or near the corporate limits of the municipality a cemetery or other place for the burial of the dead, and to regulate interments therein, and to guard and police the same, and to provide for the cremation and incineration of dead human bodies, when from the nature of the malady or pestilence from which death ensued, the municipal board of health may direct; to regulate the erection, construction, alteration and repair of dwelling houses, buildings and other structures within the municipality and to compel the numbering of the same by the owners or occupiers thereof; to regulate the hanging of doors and the construction of stairways, elevators and fire escapes in theatres, churches, school buildings, factories and other places where many persons are received at one time, and to require the construction of fire escapes in such buildings; to regulate, by license and otherwise, plumbers, electricians, sewer tappers and vault cleaners; to establish fire limits, and to regulate the construction of buildings and designate materials to be

used in the construction of buildings within such limits; to regulate the building of fire walls, fire places, chimneys, boilers, smoke stacks and stove pipes; to take down and remove, or make safe and secure, any and all buildings hereafter erected, and the alteration and repair of any by the owners thereof, that are or may become dangerous, or to require the owners, or their agents, to take down and remove them or put them in a safe and sound condition at their own expense; to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings now or hereafter erected in the municipality, and to require permits to be obtained of the municipality for such buildings and structures and the repair or alteration thereof, and that plans and specifications thereof be submitted to the council or some person designated by it; to regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street; to provide for the prevention and extinguishment of fires, and for this purpose to organize, equip and govern fire companies and hose companies, and to prescribe the powers and duties of such companies and department, and of the several officers therefor, and to impose on those who fail to obey any lawful command of the officer in charge of such company any penalty which the council is authorized to impose for violations of an ordinance, and to give authority to such fire officer to direct the pulling down of any building or the destruction of any fence, wall, building or other thing if such officer deem it necessary to prevent the spreading of the fire; to protect the persons and property within the corporate limits, and to preserve the peace and good order therein, and for this purpose to appoint, when necessary, a police force, and such other officers, as may be deemed necessary; to prescribe the powers and define the duties of the officers appointed under corporate authority, fix their terms of service and compensation, if not otherwise prescribed in this act, and to require and take from them bonds, when deemed necessary, payable to the city of Keyser, with the sureties and in such penalties as may be prescribed, conditioned for the faithful discharge of their duties; to erect, own or lease street cars and street railway plant, and to build, equip, maintain and operate street railways within the municipality and to any park, cemetery or public place belonging to the municipal corporation outside of the corporate limits, and to collect of persons riding thereon, or receiving service thereof, a reasonable

fare or compensation therefor; to erect, authorize or prohibit the erection of power plants, heating plants, gas works, electric light works or water-works in the municipality, and to erect, own or lease and maintain within or without the corporate limits of the municipality such gas works, electric light, power works, water works and reservoirs to supply the municipality or its inhabitants with water, light, heat or power, and to prevent injury to the same or the pollution of the water or to impair the healthfulness thereof; *provided*, that whenever said municipality shall operate an electric light plant, a gas plant, or other public utility, except water works, in or for the municipality, all the money derived from the operation of the same shall go to the credit of the fund covering the operation of such plant only, and shall not be diverted therefrom so long as there is any bonded or other debt against the same; and such fund shall be applied to the operating expenses of the plant which that fund covers, and it may be used to repair, improve, enlarge or replenish such plant, or to discharge in whole or in part any bonded or other debt against the same; to grant, by ordinance or franchise, for periods not exceeding thirty years, the use of its streets, roads, alleys and public places, to lay pipes, conduits, manholes, drains, and other necessary fixtures and appliances, to be used for supplying the municipality and its inhabitants with steam or hot water, or both, for heat and power purposes, or both, or for illuminating purposes; and to grant by ordinance or franchise, for periods not exceeding thirty years, the use of its streets, roads, alleys, and public places for the construction of movable or rolling roads, for the conveying or moving of passengers, freight and other property, and those in charge of the same, upon such terms and conditions as are hereafter prescribed; to grant by ordinance or resolution permits for the temporary use of its streets, roads, alleys and public places for the construction of movable or rolling roads, for the conveying or moving of passengers, freight, vehicles, animals or other property, upon such conditions as are hereinafter prescribed; to provide a revenue for the city and appropriate the same to its expense; to this end to cause to be assessed and collected in each year an *ad valorem* tax, not to exceed fifty cents on each one hundred dollars assessed valuation on all property in said city, subject to state and county taxes, as valued and returned for such taxation by the county assessor; to erect, buy, sell and lease all buildings necessary for the use of the city government, or any of its departments, including a town hall or play house, and to provide for, and

regulate the same and establish and maintain public hospitals, and to receive donations, gifts and bequests for the same, in trust or otherwise; to compel the attendance at public meetings of the members of the council, citizens' committee, or any officer or employe of said city; to prevent corrupt practices at all primary and general elections of said city and to fix the maximum sum of money that may be expended by any candidate for nomination or election; to prescribe the purposes for which the same may be used and the penalty or forfeiture to be imposed for violation, which may include the forfeiture of nomination or office; to provide for the removal and abatement of nuisances and to carry out and to enforce sanitary regulations; to regulate the sale of cocaine, morphine, opium and all poisonous drugs within said city, and to prescribe punishment, including fine and imprisonment, for the violation of any such regulation, and to provide that one or more convictions for violating the same shall operate as a revocation of the license of any druggist or pharmacist holding a license under said city; to provide penalties for the offenses and violations of laws mentioned herein, but which shall not exceed the penalties provided for like offenses in chapters one hundred and forty-eight, one hundred and forty-nine and one hundred and fifty-one of the code of West Virginia; and to punish violations of all ordinances even if the offenses under and against the same shall also constitute an offense under the laws of the state of West Virginia.

Municipal Authority.

Sec. 17. To carry into effect these enumerated powers, and all other powers conferred upon said city, expressly or by implication, in this and other acts of the legislature, the municipal authorities of said city shall have power in the manner hereinafter prescribed, to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of this state, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment, and shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs. Such fines, penalties and imprisonment shall be recovered and enforced under the judgment of the police judge of the city, or the person lawfully exercising his functions.

The proceedings before the police judge, or other person exercising his functions, for enforcing regulations and penalties for violation of ordinances, shall be by warrant of arrest in the corporate name of the city, directed to the chief of police, other policemen of the city, or

to any constable of Mineral county, commanding the person to whom directed, in the name of the state of West Virginia, to forthwith apprehend the offender or cause him to be apprehended and brought before such police judge, or person there sitting, to answer said charge and to be dealt with according to law.

The warrant of arrest shall be issued only on the information under oath of some reliable person. It shall describe the offense alleged to have been committed where the same is a felony, as heretofore required in such cases by law, and where a violation of a city ordinance, it shall describe the offense in such general terms of the ordinance violated as shall inform the accused of the nature of the charge or charges, and command the officer to forthwith apprehend the accused and bring him before the police judge, or person exercising his functions, to be dealt with according to law. The officer issuing such warrant may endorse thereon, or by subpoena direct, the witnesses to be summoned, and may proceed against them for contempt if they fail or refuse to attend or to testify. All trials in the police court shall be by summary proceedings.

Assessment and Collection of Taxes.

Sec. 18. The levying and assessment and collection of taxes of said city, and the sale of real estate for such municipal taxes, forfeitures for non-payment and non-assessment thereof, transfer of title vested in the state, redemption of such forfeited real estate and deeds of conveyance therefor, shall, except as otherwise provided in this act, be made in the manner provided in, and subject to, the provisions of chapters nine of the acts of the legislature of nineteen hundred and eight, extraordinary session, twenty-nine, thirty, thirty-one and one hundred and five of the code.

Bonds.

Sec. 19. 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 as-

sessed 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 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 three-fifths vote. Such bonds shall not be sold for less than par, nor exchanged for the evidences of indebtedness of said city except dollar for dollar. The method of issuance and proceedings for conduct of election, shall, except as otherwise provided in this act, be in the manner and form provided by chapter forty-seven-a of the code.

Licenses.

Sec. 20. Whenever anything for which a state license is required, is to be done within said city, or within two miles of the corporate limits thereof, the municipal authorities, as herein provided, may require a city license to be had for doing the same, and may, in any case require from any person licensed, a bond with sureties and in such penalty and with such conditions as it may deem proper, and the council, on notice, may revoke such license at any time if the condition of the said bond be broken. And the municipal authorities may also impose a license and assess a tax thereon on all wheeled vehicles for public hire, all dogs kept within said corporate limits, all insurance, bonding, casualty and guaranty companies, all franchises heretofore granted by the towns of Keyser and South Keyser or hereafter granted by the city, bill posting and distributing, and the making, erection and construction of signs and street advertisements, book agents, common criers, moving picture shows, drays, cabs, hacks, etc., eating houses, restaurants, and places where soft drinks are sold, express companies, hitting and striking machines, livery and feed stables, omnibuses, street vendors, transient merchants, telegraph and telephone companies, electric light and gas companies. The municipal authorities may prescribe, impose and enforce reasonable fines and penalties, including imprisonment, under the order of the police judge of said city, or the person lawfully exercising his functions, upon any person carrying or attempting to carry on any business for which the said license is required, without first obtaining a city license therefor, and paying the city license tax assessed thereon. All licenses provided for in this act shall be paid to the treasurer. For

the purpose of enforcing the provisions of this section the city shall have police jurisdiction for two miles beyond the corporation limits thereof.

Franchises.

Sec. 21. Franchises may be granted by the council, under the regulations provided in section nine of this act, subject to veto by the mayor, allowing to persons and corporations, for a limited time, the occupancy of portions of the streets, alleys, roads and public grounds as may be necessary for works of public utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telegraph and telephone poles and subways, electric light and other electric poles, water works, wires, and subways and gas and steam pipe lines. But no such franchise shall hereafter be granted except under the following restrictions and conditions, namely:

No ordinance granting any franchise for the use of the streets, roads, alleys or public grounds of the municipality, for any of the purposes of public utility above named, or for any other purpose of like nature, except as hereinafter provided, shall be passed unless it shall have been first proposed in the council; and notice of the object, nature and extent of such franchise shall be published at least thirty days by the applicant, at his expense, in some newspaper published in said municipality, before being acted upon, and shall have received the votes of at least a majority of all the members elected to the council and citizens appointed as provided in section nine, at a regular meeting or meetings, and after said publication. The votes thereon shall be taken by yeas and nays, and the same entered in the journal. Upon being passed by the council the ordinance granting said franchise shall be forthwith transmitted by the municipal clerk to the mayor for his approval or disapproval, and in case of his disapproval of same, it shall not be considered as passed unless it again receive the affirmative vote of a majority of the members elected to the council and citizens appointed as provided in section nine. If the franchise is amended, after having been vetoed by the mayor, it shall be subject to the veto of the mayor as in the first instance. After the ordinance granting such franchise has been passed, it shall be published in full, at the expense of the applicant, at least once within the period of ten days thereafter, in some newspaper of general circulation in the municipality, and one copy of the same shall be filed with the municipal clerk, who shall preserve the same as a public record.

The council may grant a permit at any time in or upon any street, road, alley or public place; *provided*, that such permit may be revocable by the council at its pleasure, at any time, whether such right to revoke be expressly reserved in every such permit or not.

All franchises and privileges hereafter granted shall plainly specify on what particular street, road, alley or other public property the same shall apply, and no franchise or privilege shall hereafter be granted by the municipality in general terms, or to apply to the municipality generally. No exclusive franchise shall ever be granted, and no franchise shall be renewed before three years prior to its expiration.

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

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

No extension or enlargement of any franchise or grant of rights or powers previously granted to any corporation, person or association of persons, shall be made except in the manner and subject to all the conditions herein provided for the making of original grants of franchises.

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

No grant of a franchise for the extension of, or addition to, any line of such work, over any street or territory in said municipality, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension, and if the franchise of the principal company or work is one which was granted before this act goes into effect, the franchise granted for the extension or addition shall nevertheless be subject to the condition hereof, including a time limit herein specified.

If a franchise secured from the municipality by an individual or

by an independent or new company, and the work constructed thereunder afterwards becomes a part of, or to be operated as a part of, a large work of the same kind, whose franchise was previously obtained and is limited to expire earlier, such later franchise shall, by reason of such annexation, merger or single operation, expire simultaneously with such earlier franchise of the old company or work. An annual franchise tax of not less than fifty dollars shall be charged and collected on all franchises heretofore granted by the towns of Keyser and South Keyser or hereafter granted by the city.

Mandamus.

Sec. 22. In all cases where any individual, association of individuals or corporation has obtained or shall obtain any right, privilege or franchise to operate a street car line, lines of cars in whole or in part upon the streets, roads or alleys of the municipality, or to furnish to such municipality or the inhabitants thereof water, gas or electricity, or to construct or operate a telephone or telegraph system in any such municipality, and the terms, conditions or manner of exercising such right, privileges or franchises are embodied in the ordinance or resolution of the municipality, or are otherwise, either voluntarily or by law, imposed or assumed by said individual, association of individuals or corporation, then and in each of such cases the circuit court of Mineral county shall have power by mandamus to compel such individual, association of individuals or corporation and their assigns, to use and exercise such right, privilege or franchise in accordance with the terms and conditions and in the manner prescribed in said ordinance or resolution or otherwise lawfully so defined or assumed, and to do and perform each and every obligation and duty attached to such right, privilege or franchise, whether or not such obligation and duty be voluntarily assumed or by law attached thereto or imposed thereby.

Such mandamus may be awarded at the instance of the municipality in its corporate name, or at the instance of any taxpayer or taxpayers; and the foregoing remedy by mandamus shall not be construed to deprive such municipal corporation, or any inhabitant thereof, of any other remedy given by law to compel such individual, association of individuals or corporation to comply with the terms, conditions and agreements of such right, privilege, or franchise, or of the right to recover damages for their failure so to do, or to effect, remove or lessen the liability of such individual, association of

individuals or corporation, to forfeiture of such right, privilege or franchise for failure so to use and exercise such right, privilege or franchise.

Pavements and Sidewalks.

Sec. 23. The council shall have the right to establish the width of any sidewalk along any street, alley or public square, or portion thereof, and any owner, of ground fronting on such street, alley or public square, shall in such manner as the council shall reasonably prescribe, pave and curb the sidewalk adjacent to such property. In case of a failure or refusal of such owner to pave or curb the same, the council may cause the same to be properly curbed and paved by the city, and levy and collect from such owner, the whole cost of such curbing and paving adjacent to such property, with a penalty of five per centum added thereto, together with six per centum interest until paid; and in like manner to require the owner of any property adjacent to any paved sidewalk heretofore or hereafter constructed, to keep the same in repair and in default of doing so, to cause the same to be repaired and to levy and collect from said owners the whole cost thereof with a penalty of five per centum added thereto together with six per centum interest per annum until paid. In all cases of such assessment, whether for the original or for the repairing of sidewalks, payment thereof, including penalties and interest, shall be made to the city clerk within thirty days after the completion of the work, who shall have power to collect the same from the owner or owners of any such property, by distress and sale in the same manner in which taxes levied for the benefit of the city are authorized to be collected; and in addition, there shall be a lien upon such real estate, which lien may be enforced by appropriate suit in any court of record of Mineral county.

Nuisances.

Sec. 24. The council of said city is hereby authorized to decide and adjudge what constitutes a nuisance within the municipality, or within two miles thereof, when not within the limits of another municipality, and may require and compel the person committing or maintaining the same, or any owner, agent, assignee, occupant or tenant, of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same upon order from such municipal body, or from the board of health, or health officer, or other officer of the municipality acting with authority in the premises; and

the council may prescribe by ordinance a penalty for the punishment of any such person who may refuse, fail or neglect to abate or remove any such nuisance within the time specified in the notice therefor.

The council may also by its own officers, appointees and employes, abate and remove nuisances, after reasonable notice to the owner, occupant, tenant, agent or assignee to abate and remove such nuisance, and collect the expense thereof, with one per centum per month interest added from the date of said notice, from said owner, occupant, tenant, agent or assignee, by distress or sale in the same manner in which taxes levied upon real estate for the benefit of the municipality are authorized to be collected under this act; and the expense shall remain a lien upon said lot or part of lot the same as taxes levied upon real estate in the municipality, which lien is in addition to the remedy specified in this section and may be enforced as provided in section twenty-five of this act.

In case of non-resident owners of real estate, such notice may be served upon any tenant, occupant, assignee or rental agent of said premises, or on such non-resident owner or infant or insane owner by publication thereof for not less than two consecutive weeks in a newspaper published in the municipality. The abatement or removal of any such nuisance by the municipality, and at its expense, as herein provided, shall be *prima facie* proof that the said notice to the owner, occupant, tenant, agent or assignee was given as herein required.

The council may require all owners, tenants and occupants of improved property, which may be located upon or near any street, road or alley, along which may extend any sewer or system of sewerage, which the municipality may construct, own or control, to connect with such sewer or system of sewerage, all drains, cesspools, sinks, privies or water closets, upon their respective properties, or premises, so that their contents may be made to empty into such sewer or system of sewerage.

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

The council may by ordinance regulate the location, construction,

repair, use, emptying, and cleaning of all water closets, privies, cess-pools, sinks, plumbing, drains, yards, pens, stables and other places where offensive or dangerous substances or liquids are or may accumulate, and may provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignees, occupant or tenant of any premises or structure where such violation may occur.

The council shall have authority and jurisdiction of and over the water reservoirs, pipe lines and property adjacent, and all other property of the city located in Mineral county, whether the same be within the corporate limits of said city or not, and for the protection and preservation of the same shall have authority to pass all necessary ordinances, rules and regulations and to provide penalties for the violation thereof; and the police judge, or officer exercising his functions, shall have jurisdiction to try offenders against such ordinances, and his warrant may be directed to any police officer of the city, or to any constable or the sheriff of Mineral county, and may be served and the offender arrested anywhere in said county.

Lien for Taxes, Etc.

Sec. 25. There shall be a lien on real estate within said city for city taxes assessed thereon, and for all fines and penalties assessed to or imposed upon the owners thereof, by the authorities of such city, including expenses for making sidewalks and paving and curbing the same, and for furnishing water, electric lights or other public utilities when furnished by said city, from the time the same are so assessed or imposed, which shall have priority over all other liens except taxes or debts due the United States and the lien for taxes due the state, county or district; and such lien may be enforced by the council in the same manner provided by law for the enforcement of a lien for county taxes, and any time after six months after such lien attaches. the city may in its own corporate name proceed to the enforcement of said lien against the real estate chargeable therewith by a suit in equity. If any real estate within said city be returned delinquent for the non-payment of city taxes due thereon, a copy of such delinquent list shall be certified by the council to the auditor of this state and the same may be sold for city taxes, interest and commissions thereon in the same manner, at the same time, and by the same officers as real estate is sold for state taxes; and a return of such sales made to and a deed executed therefor, if

not redeemed, in the same manner and with like effect, as the return of sales of real estate sold for state taxes is made and deeds therefor executed to the purchasers.

Liens against real estate for the cost of abating or removing nuisances by the municipality, as provided in section twenty-four herein, and the cost of constructing and repairing sidewalks, walkways and curbs by the municipality as provided in section twenty-three herein, may be enforced by suit in equity, before any court having jurisdiction, as other liens against real estate are enforced, and this remedy shall be in addition to the imposition of all other remedies and penalties in the premises under the provision of this act; *provided*, that in the case of laying or repairing sidewalks, and abating nuisances, there shall be first admitted to record in the office of the clerk of the county court of Mineral county, an abstract or statement of the judgment of the council fixing the amount of the expense of laying or repairing such sidewalk or curb or abating or removing such nuisance, together with the penalty of one per centum per month on said amount from the time so fixed until paid, as provided in this act. Said abstract or statement may be certified by the city clerk; and after the amount of the assessment and penalty is due by the terms of the ordinance or resolution laying the same, and a certificate of such levy and assessment, together with the name of the owner and occupier of said property, its location and description, has been filed in the office of the clerk of the county court of Mineral county, and in satisfaction of the amount so due such municipality, and cost of the proceeding, the said real estate may be sold, and the proceeds applied to the payment of the amount so due.

Water, electric light, power and heating bills and other bills of like kind due the municipality, owning or operating such plant or plants, for the service or commodity of such public service plants, may be distrained for and collection enforced in the same manner in which the collection of taxes owing to the municipality may be enforced. The municipal authorities may also shut off the supply of such water, light, heat, power or other commodity from such delinquent person or company and refuse thereafter to furnish such service or commodity to said delinquent until all arrearages are paid.

Health—Health Commissioner.

Sec. 26. The council shall have authority to ordain and enforce

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

The mayor, by and with the consent of the council, shall in the month of July, one thousand nine hundred and thirteen, and in said month of every second year thereafter, appoint a suitable person, who shall be a practicing physician, as health commissioner, whose term of office shall be for two years, and until his successor is appointed and qualified. The members of the council, the mayor, city attorney and health commissioner shall comprise the board of health of said city. The health commissioner shall be charged with the duty of enforcing all quarantine regulations and of all regulations for keeping the streets, roads, alleys and sidewalks of the city, and all premises therein, in a sanitary condition. He shall be authorized to enter all houses, or other places, public or private, at all times, in the discharge of his duties, in improving and maintaining the sanitation of the city and the prevention and suppression of disease, and he shall have the power and be required to carry into effect all of the provisions of section twenty-four of this act relating to the abatement of nuisances, under such regulations as the council may by ordinance prescribe. He shall be authorized to do all acts and make all regulations that may be necessary or expedient for the promotion of health and the prevention and suppression of disease; he shall have the right to inspect all wells, cisterns and water supplies in said city and to prohibit the use thereof if necessary in his judgment to prevent or suppress disease; he shall have the right to inspect all milk, meat, fish, oysters, vegetables and all other food stuff displayed or offered for sale in said city and to make such rules and regulations touching the preparation, display, delivery and sale thereof, as he may deem prudent, necessary and proper for cleanliness and the prevention and suppression of disease, and he

shall perform such other duties as may be prescribed by the council, and shall have and exercise all of the powers and duties conferred upon the county board of health. He shall give public notice, in such manner as he may deem necessary, of any rule or regulation promulgated by him under this act, and any person, firm or corporation who shall violate the same, after proclamation thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten nor more than one hundred dollars, and for a second offense may be confined in jail not more than thirty days. Every practicing physician shall forthwith report to the health commissioner every infectious or contagious disease which he is called upon to treat within said city; and if any such physician shall fail to make such report within one day after he has discovered such infectious or contagious disease, he shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than one hundred dollars. The city clerk, in his capacity of police judge, shall have jurisdiction of all offenses hereunder.

The council shall have authority to provide, under the supervision of the health commissioner, proper vaccine serum, whenever an epidemic of smallpox is threatened, and the health commissioner shall vaccinate any applicant upon the payment to him of such fee as the council shall by ordinance prescribe, and he shall thereupon issue a certificate to the patient showing his vaccination. And the council may, in like manner, in any proper case, provide antitoxin lymph or serum for immunizing against or preventing the spread of diphtheria, typhoid fever, meningitis, or other infectious or contagious disease or epidemic, and may furnish the same free to indigent persons.

Ordinances—General Provisions.

Sec. 27. The style of the ordinances of the city shall be: "Be it ordained by the council of the city of Keyser;" but the ordinances now in force shall remain in effect until amended or repealed, except where the same are in conflict or inconsistent with this act.

Sec. 28. All ordinances shall be presented in writing, and no ordinance shall be so amended in its passage as to change its general purpose. No ordinance shall be considered for final passage at the meeting at which it is introduced, unless by unanimous consent entered of record. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; nor shall any

ordinance be passed by the council unless a majority of all the members elected to the council shall concur therein by yeas and nays when the question is put upon its passage.

Sec. 29. All ordinances passed by the council, and vetoes of the mayor, shall be spread at large upon the journal, and at the next regular meeting such ordinances and vetoes shall be read in open council, and the mayor shall sign said minutes, when found correct or corrected, in the presence of the council. The council shall provide a well bound book in which shall be copied all ordinances in the order in which they are passed, which ordinances so copied shall be compared with the originals by the mayor and shall be signed by him when found correct. Such book shall be indexed so as to show in brief form the substance of the ordinance. All copies thereof certified, under the hand of the city clerk and the seal of the city, shall be received by all courts and justices in this state as evidence. But the council may adopt, by ordinance, properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and the said code shall be and become the laws and ordinances of said city, and shall be received as such in all courts of this state, and the printed volumes published under the order of the council shall be so received as evidence of what is printed therein till errors or omissions be affirmatively shown therein.

Duties of the City Clerk.

Sec. 30. The city clerk shall serve for a term of two years, unless sooner removed for cause. He shall, before entering upon the discharge of his duties as such clerk, take and subscribe to the oath of office prescribed in section fifteen of this act, and shall execute such bond as shall be fixed by council which bond shall be approved by council and filed with the treasurer.

In addition to all the other duties prescribed in this act, the city clerk shall keep the records of the council, and he, or his deputy, shall be present at all regular and special meetings of that body. It shall be his duty to properly record in a well bound book all the proceedings of council as well as a complete record of all ordinances, franchises, bonds, permits and resolutions adopted or passed by council, and to properly index the same, for the convenience and inspection of the council, or any city official or taxpayer.

Before any business at any regular meeting of the council is under-

taken it shall be the duty of the clerk to read publicly to the council the minutes of all regular or special meetings of that body, not theretofore read or approved, and upon approval of same by council, the signatures of the mayor and clerk shall forthwith be affixed. All records of council so approved and signed, or duly authenticated copy thereof, signed by the clerk and under the seal of the city, shall be admitted as evidence in any proper case in any court in this state.

The city clerk, except as may be otherwise herein provided, shall be the custodian of the records and papers of the city and the seal of the city, which shall be kept by him at his office, and the records and papers shall be open to public inspection at all proper hours. He shall, acting under existing laws, in so far as they are not in conflict with this act, perform such duties relating to all city elections held under this act, as the clerks of the circuit or county courts perform, under state laws, in relation to the holding of general or special elections; and he shall likewise be the custodian of all registration books, ballot boxes, ballots, tally sheets, etc., pertaining to all municipal elections.

The city clerk shall have power within the municipality to administer oaths and take acknowledgments of deeds and other instruments required by law to be acknowledged, in the same manner and with like effect and under the same penalties as notaries public, justices of the peace and other officers of the state are authorized to administer oaths, or take acknowledgments, under state laws.

It shall be the duty of the city clerk, who shall be the assessor, to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council on or before the first day of August in each year, and for the purpose he shall have all powers conferred by law on county assessors. He shall list the number of dogs in the city and the names of the persons owning the same, which list shall be returned to the council. In order to aid the said council in ascertaining the property and tithables subject to taxation by said city, the city clerk (who shall act as assessor) of said city, shall have access to all books and public records of Mineral county without expense to said city or assessor, and he shall also have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of

taxation in said city as are granted and imposed upon the county assessors throughout the state by the general state law, and the council shall also have authority to prescribe by ordinance such other rules and regulations as may be necessary to enable and require such assessor to ascertain and properly assess all property and tithables liable to be taxed by said city so that such assessment and taxation shall be uniform, and to enforce such ordinances by reasonable fines and penalties. And the said city assessor, making the valuation for assessment, shall make the same assessment for both real and personal property as the assessor of said county for the assessment year assessed by the county assessor. The city clerk shall have an office in the city hall, council chamber or such other place as the council may designate and provide. He shall keep his office open for at least three consecutive hours in the forenoon and afternoon of each day.

In addition to the duties hereinbefore set out and otherwise provided in this act, the city clerk shall by virtue of his office be the police judge of the city, and his oath of office and the conditions of his bond shall extend to and cover his duties and obligations as police judge. The city clerk shall, as such police judge, be *ex officio* a justice of the peace with authority to issue warrants or other process for all offenses within the police jurisdiction of the city, of which a justice of the peace has jurisdiction under state laws, and for all violations of any city ordinance. In order to preserve the peace and good order of the city and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrant therefor. He shall hold daily sessions of his said court, Sundays excepted. He shall have and exercise all of the civil jurisdiction conferred by law upon justices of the peace, but before proceeding to act in such capacity, he shall file with the clerk of the county court of Mineral county, a certificate from the mayor of said city showing his appointment and qualification as city clerk, and shall thereupon take the oath and execute the bond required to be taken and executed by justices of the peace.

The police judge may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury, but he shall receive no fees or other compensation for such services: he shall have power to issue executions for all fines,

penalties and costs imposed by him, and he may require the immediate payment thereof, and in default of such payment may commit the person so in default to jail, until the fine and penalty and costs shall be paid or satisfied, and any one so committed may be required to work during imprisonment, as required by council.

If any person is sentenced to imprisonment, or any person or corporation is assessed with a fine of ten dollars or more, such person or corporation shall be allowed an appeal from said decision of the police judge to the circuit court of Mineral county, upon the execution of an appeal bond with surety deemed sufficient and approved by the police judge in a penalty double such fine and costs conditioned that the person or corporation proposing to appeal will perform and satisfy any judgment which may be rendered against him or it by said court on such appeal; and in no case shall a fine of less than ten dollars be given by the police judge, if the defendant, his agent or attorney request that the fine be made as much as ten dollars.

If the appeal be taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the police judge to the clerk of the court to which such appeal is taken, and said court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and evidence may demand.

The police judge shall be authorized to suspend sentence or parole any juvenile offender under the age of sixteen years, who may be brought before him for the violation of any ordinance of the city or charged with any misdemeanor under the laws of the state; he shall prescribe the conditions of such parole and enter them in his docket and may commit the offender to the care and custody of any proper person, with a view to the correction and reformation of such offender, and may take from such person such bond or security, conditioned as he shall prescribe. The chief of police, or a policeman designated by him, shall attend all sessions of the police court and perform such duties as may be required by ordinance or requested by the police judge.

The police judge shall keep in a well bound book a complete record of all cases heard and considered by him, and he shall account for and pay over the amount of all fines, as well as the fees of himself and other officers, under salary, collected by him, weekly, to the

treasurer of the city, and shall make monthly reports thereof, and of all other matters pertaining to his office to the council of the city. In the absence of the police judge the mayor of the city shall sit as such police judge with the same power and authority.

The police judge, if an attorney, shall not practice in said police court as an attorney or counselor or in any case appealed or removed therefrom, but shall have the right to practice law as an attorney in other courts and cases.

In addition to the other duties to be performed by the city clerk, he shall also be the city collector, charged with the duty of collecting all taxes, levies, assessments, water rents and all other funds due the city, except licenses; and as such collector shall have and exercise all of the rights, authority and powers conferred upon town sergeants by the general law of the state with reference to the collection of taxes and funds of cities, towns and villages, and upon sheriffs with reference to the collection of state and county taxes and funds. He shall at least once in each week, or oftener if the council so require, account for and pay over to the city treasurer all moneys received by him as such collector; he shall before entering upon the duties of his office give the bond hereinbefore required, payable to the city of Keyser in the penalty of not less than five thousand dollars, conditioned for the faithful performance of the duties of the office of city clerk, collector and police judge and to account for and pay over, as required by law, all moneys which may come into his hands by virtue of any and all of said offices, and shall be chargeable with all of the city taxes, levies, assessments and water rents, from the time the bills therefor are required to be made up and collected, and with all moneys of the city, including fines, fees and penalties, that may come into his hands. He shall receive no fees or commissions for his services, but shall account to the city for all fees received by him, except those received by him when acting in civil suits, taking depositions or acknowledgments. He shall at the first stated meeting of the council in each month make his report to the council of all moneys and credits coming to his hands as city clerk, police judge and collector, accompanied by a receipt or receipts from the treasurer showing that said moneys have been paid to him, and he shall publish once in every six months a detailed itemized statement of all receipts and expenses of the city for the preceding six months.

The city clerk may appoint such deputies and assistants, with the approval of the council, as the duties of his office render necessary. The deputies shall take the oath required of the city clerk and shall give such bond as he may require, but such deputies or assistants shall not perform any judicial duty of the police judge.

The salary fixed for the city clerk, which shall not be increased or diminished during his term of office, shall be deemed to include all the services of all deputies, clerks and agents employed by him, and no additional allowance shall be made for, or on account of, any such services so rendered by the city clerk.

Duties of the Treasurer.

Sec. 31. The treasurer shall receive and account for all moneys from all sources of municipal revenue. All license taxes and fees shall be paid to him direct by the person to whom such license is issued, and no license shall be valid without the receipt of the treasurer for such tax and fees endorsed thereon. All officers and agents of the city, authorized to receive money for the city, or revenues thereof, from any source whatsoever, shall pay over to the treasurer such moneys and revenues within one week after the receipt thereof, or sooner if required by the council.

He shall keep the funds of the city in some bank or banks within the city, which shall pay to the city two per centum or more per annum interest on such deposits, payable quarterly, based on the average daily balance on such funds in all accounts. If no bank within the city is willing at any time to receive deposits of the treasurer, and to pay such interest thereon, the treasurer shall report this fact to council, which shall thereupon designate a bank or banks in which he shall deposit such funds for the time being, and until some bank in the city will receive deposits at the rate of interest so fixed.

Said bank or banks shall give bond in the penalty prescribed by council, and with sureties to be approved by council, conditioned for the prompt payment, whenever lawfully required, of all public moneys, or parts thereof, which may be deposited with them.

The salary fixed for the treasurer, which shall not be increased or diminished during his term of office, shall be deemed to include all the services of all deputies, clerks and agents employed by him, and no additional allowance shall be made for or on account of any such services so rendered by the treasurer. He shall give bond

or bonds in an amount to be fixed by council, which bond shall be approved by council, before entering upon the discharge of any of the duties of his office, and file same with the clerk. The treasurer shall pay all warrants or other proper orders legally drawn and presented, out of any moneys at the time in the fund on which such warrant or order is drawn, but no money shall be paid by him except as the same shall have been appropriated by the council and upon an order signed by the mayor and city clerk. If no money is in the fund with which to pay such warrant or order, the treasurer shall endorse on the back thereof the words, "no funds," and affix the date of such endorsement, and shall preserve a record of such endorsement in his office. The treasurer shall perform any other duties which council may from time to time prescribe and which are not inconsistent with the general scope of his duties.

Duties of City Attorney.

Sec. 32. The city attorney shall be the legal adviser of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all suits, actions and proceedings instituted on behalf of said city and defend all suits and actions against said city, and, when requested in writing, shall give his written opinion to the mayor, council, or any standing committee thereof, upon such legal questions as may be referred to him affecting the city's interests; he shall perform such other duties as may be required. It shall be his duty to attend sessions of the police court, when requested by the mayor or police judge, and prosecute all trials therein and all appeals that are taken from such court; and for his services he shall receive such compensation as the council shall provide.

Police Department.

Sec. 33. The council shall by ordinance establish a police department, of which department the chief of police shall be in command. He shall be charged with the duty of preserving peace and good order in the city and of protecting the persons and property of the citizens. He shall have the right to stop, suppress or prevent any immoral, obscene or improper shows, theatrical performances or moving picture exhibitions. Policemen may be suspended, removed and discharged at any time by the mayor, upon his own motion or that of the chief of police, for good cause, in which event the

mayor shall report such suspension, removal or discharge, together with the reason therefor, to the council at its next meeting. The council shall consider such suspension, removal or discharge and may make such order in reference thereto as it may deem wise. The council shall have the power to suspend, without pay, the chief of police, or any policemen against whom charges are preferred.

Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act. The chief of police may also execute within this city any civil writ or process issued by the police judge, or any justice of the peace or court in Mineral county, and shall have all the powers conferred by law upon constables and sheriffs, but he shall not act in such capacity until he shall have first qualified before the county court of Mineral county and given the bond required of constables.

Duties of the Street Commissioner.

Sec. 34. The street commissioner shall perform such duties as are now, or which may hereafter be imposed upon him by any ordinance of said city, and shall receive such compensation as may be fixed by council.

Power to Condemn.

Sec. 35. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, city hall, reservoirs, electric light plant, pipe lines, or for any other ground, within or without the city, necessary for public improvements and which the council is authorized to acquire or maintain under this act; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Recall.

Sec. 36. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such in-

cumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per centum of the entire vote for all candidates for the office of mayor cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition, the city clerk shall examine and from the voter's register ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary, the council shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If, by the clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the clerk shall submit the same to the council without delay. If the petition shall be found to be sufficient, the council shall order and fix a date for holding said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

The council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections. So far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the clerk at

least ten (10) days prior to said special election, a statement of candidacy accompanied by a petition signed by electors entitled to vote at said special election, equal in number to at least ten per centum of the entire vote for all candidates for the office of mayor at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in section six of this act, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition and stating therein that such person is a candidate for election instead of nomination.

The ballot for such special election shall be in substantially the following form:

OFFICIAL BALLOT.

Special election for the balance of the unexpired term of

.....as.....

For.....

(Vote for one only)

(Names of candidates)

[].....

[].....

(Name of present incumbent.)

Official ballot, attest:

(Signature).....

City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who received the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office, and those electors who signed the petition demanding such special election shall, unless it be otherwise ordered by the council, pay the costs of such election,

which said costs shall be a lien against the property of all of such petitioners, collectable and enforceable in like manner and to the same extent as taxes due to the city are collected. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

Initiative.

Sec. 37. Any proposed ordinance may be submitted to the council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as provided for petition under section thirty-six hereof.

If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty per centum of the votes cast for all candidates for mayor at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the council, such council shall either:

(a). Pass such ordinance without alteration within twenty days after attachment of the clerk's certificate to the accompanying petition; or,

(b). Forthwith, after the clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the council shall call a special election, unless the general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by not less than ten per centum of the electors, as above defined, then the council shall within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than ninety nor less than thirty days after the clerk's certificate of sufficiency is attached to said petition.

The ballot used when voting upon said ordinance, shall contain these words: "for the ordinance," and "against the ordinance." (stating the nature of the proposed ordinance.) If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city; and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed

or amended except by a vote of the people. Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purpose.

The council may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this act to be submitted to the voters of the city at any election, the city clerk shall cause such ordinance or proposition to be published once in each of the newspapers published in said city; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Referendum.

Sec. 38. No ordinance or franchise passed by the council, except when otherwise required by the general laws of the state or by the provisions of this act, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency, shall go into effect before ten days from the time of its final passage, and not then unless within two days after passage, Sundays and holidays excepted, the same shall have been published in full in some newspaper published and generally circulated in said city. And if during said ten days a petition signed by electors of the city, equal in number to at least twenty per centum of the entire vote cast for all candidates for mayor at the last preceding general municipal election at which a mayor was elected, protesting against the passage of such ordinance, or franchise, be presented to the council, the said ordinance or franchise shall thereupon be suspended from going into operation, and it shall be the duty of the council to reconsider such ordinance, or franchise, and if the same is not entirely repealed, the council shall submit the ordinance, or franchise, as is provided by sub-section (b) of section thirty-seven of this act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose, and such ordinance or franchise shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall

be in all respects in accordance with the provisions of said section thirty-seven, except as to the percentage of signers, and be examined and certified to by the clerk in all respects as therein provided.

Petitions.

Sec. 39. Petitions provided for in this act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

Election to Adopt or Reject Charter.

Sec. 40. But this act shall not be effective unless the same shall be first submitted to the voters within the territory embraced and described in section two hereof, at a special election called for the purpose and adopted by the majority of the votes cast at such election. Said special election shall be held on the first Tuesday in May, in the year one thousand nine hundred and thirteen, unless this act shall not have taken effect on that day, in which case such election shall be held on the first Tuesday after the day on which this act would go into effect but for this section. The council of the towns of Keyser and South Keyser shall provide for circulation of printed copies of this act or publication thereof in such manner as said council deem best. The election shall be held in the election precincts at which the first primary and general election is to be held under this act, as provided in section three hereof, and the election officers shall be appointed for such special election and the result thereof ascertained, in the manner provided by section six of this act. The ballot shall be prepared under the direction of the council of the town of Keyser and shall be headed: "Special election for ratification or rejection of a new charter for Keyser," and underneath said head shall be the words, in separate lines, "for new charter," and "against new charter." Any voter desiring to vote for adoption of this act shall strike out the words "against new charter," and any voter desiring to vote for rejection of this act, shall strike out the words "for new charter." And in the event that this act shall not be in effect on the second Tuesday

preceding the first Tuesday after the first Monday in June, one thousand nine hundred and thirteen, the first primary election hereunder shall be held on the second Tuesday of June, and the first general election shall be held on the fourth Tuesday of June, one thousand nine hundred and thirteen.

Acts Repealed.

Sec. 41. All acts in conflict or inconsistent with this act, are to the extent of any such conflict, hereby repealed, but this act shall not be construed to repeal, change or modify any previous acts not inconsistent with this act, or to take away any powers heretofore conferred upon the city of Keyser, or upon the mayor or council, or any other of the officers thereof, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

(Senate Bill No. 56.)

CHAPTER 90.

AN ACT to amend and re-enact chapter ten of the acts of the legislature of West Virginia, of the year one thousand nine hundred and nine, entitled, "an act to incorporate the city of Weston, in the county of Lewis, defining the powers thereof and describing the limits of said city, and to repeal all acts and parts of acts inconsistent with the provisions of this act," as amended and re-enacted by chapter seventy-seven of the acts of the legislature of said state, of the year one thousand nine hundred and eleven, entitled, "an act to amend and re-enact section thirty-three of chapter ten of the acts of the legislature of West Virginia, of one thousand nine hundred and nine, in relation to the city of Weston, so as to enable the city of Weston to grant franchises for street railways for a period not to exceed fifty years," so as to consolidate said two acts as by this act amended; to enable the council of said city to change and enlarge the boundaries of the wards of said city when by reason of the acquisition of new territory by said city, such changes and enlargements may be necessary; to establish one voting place for said city, instead of the four heretofore provided for; to provide for the appointment of a person to act as mayor of said city in the event of the ab-

sence from said city or disability of both the mayor and city clerk of said city, and in the absence of the mayor from any meeting of the council of said city; to fix the manner of holding elections in said city, and the penalties for the fraudulent conduct thereof, or fraudulent voting thereat; to provide for the election, and introduction and succession in office of four councilmen for said city, instead of eight as heretofore; to render consistent all of the provisions of said two acts with the changes therein and amendments thereof made by this act; and to repeal all acts and parts of acts inconsistent with this act.

(Passed February 20, 1913. In effect from passage. Approved by the Governor February 25, 1913.)

Sec.

1. The city of Weston.
2. Corporate limits or boundary.
3. Divided into four wards.
4. Municipal authorities.
5. Council exercise corporate powers.
6. Eligibility of elective officers.
7. Term of city attorney; chief of police, city clerk, and street commissioner.
8. Election and term of office.
9. Election and term of councilmen.
10. Voting place.
11. Who entitled to vote.
12. Manner of voting.
13. Tie vote, how decided.
14. Contested elections.
15. Vacancy, how filled.
16. Council may provide for additional officers.
17. Bond and oath of officers.
18. Ineligibility or failure to qualify.
19. When officers shall enter upon duties of office.
20. Duties of mayor.
21. Duties of city clerk.
- 21a. Council to designate councilman to act as mayor, when.
22. Quorum.
23. Records to be kept by clerk.
24. Proceedings of council meeting to be read, signed and countersigned; ayes and noes may be taken.
25. Mayor's vote.
26. Place and time of meeting of council.

Sec.

27. City money to be paid to treasurer.
28. Council may authorize special tax.
29. No debt shall be contracted, except.
30. Powers of council in general.
31. Council shall have authority to pass all ordinances; shall order elections for bonding city, when; license for sale of liquors.
32. Authority as to licenses.
33. Franchises.
- 33a. Proceedings to increase corporate limits.
34. Duty of council as to result of vote taken to extend corporate limits.
35. Docket; book.
36. Board of health.
- 36a. Duty of council as to what may become lawfully chargeable against city; levy.
37. Duty of clerk as assessor.
38. Lien on real estate for taxes thereon.
39. Duty of city collector.
40. Prescribe which licenses shall be applied for and granted.
41. State law as to licenses.
42. Licenses for keeping dogs expire.
43. Council may institute proceedings for condemnation.
44. Election officers, how appointed.
45. City succeeds to rights and powers.
46. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the inhabitants of so much of the county of Lewis as are 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 Weston," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded,

purchase, lease and hold real estate and personal property, necessary to the purpose of said corporation.

Sec. 2. The corporate limits of said city shall hereafter be as follows: Beginning at a stone, put for a corner at the mouth of Polk creek, on west bank of West Fork river, and on south bank of said creek; bearing thence up said creek north 36° W. 21.40 poles to a stone; north $39\frac{1}{4}^{\circ}$ W. 13.60 poles to a chestnut tree; north 33° W. 6 poles to a beech; north 11° E. 5.60 poles to a beech; north $42\frac{3}{4}^{\circ}$ E. 12 poles to a beech; north 59° E. 14 poles to a water beech; north $23\frac{3}{4}^{\circ}$ W. 5 poles to a large beech; the West Virginia hospital for the insane sewer crosses this line at "A"; north 79° W. 12 poles to center of old Rover road, and 2.20 poles to a beech; south 21° W. 30.72 poles, crossing said Polk creek, to a stone; south 26° E. 26.82 poles to a stone; south 60° W. 20 poles to a black oak, where a foot log used to be; south $73\frac{1}{2}^{\circ}$ W. 10.50 poles to a water gap; south $60\frac{3}{4}^{\circ}$ W. 22 poles to a stone; north $88\frac{3}{4}^{\circ}$ W. 15.60 poles to a stone, the West Virginia hospital for the insane sewer crosses this line at "B," south $82\frac{1}{2}^{\circ}$ W. 25 poles to a stone; north $33\frac{1}{2}^{\circ}$ W. 57 poles to a sugar; north $31\frac{1}{2}^{\circ}$ W. 46 poles to a stone on a division line of land formerly owned by J. M. Bennett and the heirs of Jacob Butcher, deceased; thence south 31° W. 2 poles to the center of the Polk creek aforesaid 5.44 poles to the center of Staunton and Parkersburg turnpike road, 96.40 poles to a stone on top of point, and on the division line of lands owned by Henry Flesher and the West Virginia hospital for the insane; and thence with aforesaid degree, 76.16 poles to a small white oak, on the north bank of Calf run; thence down said Calf run, south 27° E. 6 poles to a stone; south 17° E. 728 poles to a stone; south $11\frac{1}{2}^{\circ}$ E. 30 poles to a stone; south $56\frac{3}{4}^{\circ}$ E. 38 poles to a stone; north $20\frac{1}{2}^{\circ}$ E. 2 poles to the mouth of Calf run; thence down the west bank to the said West Fork river; north 18° W. 29 poles to a stone; north $76\frac{1}{2}^{\circ}$ E. 21 poles to a sugar (down); south $38\frac{1}{2}^{\circ}$ E. 59.60 poles to a chestnut tree; south 84° E. 5 poles to a black oak; north $53\frac{3}{4}^{\circ}$ E. 40 poles to a white oak, below and near where the woolen factory formerly stood; north 35° E. 16 poles to a stone opposite the mouth of Still House run (now called Town run); thence crossing said river south $68\frac{1}{4}^{\circ}$ E. 10 poles to a stone near the mouth of said Town run; thence up said run, south $19\frac{1}{2}^{\circ}$ E. 9 poles to a stone; south $86\frac{1}{4}^{\circ}$ E. 20 poles to a stone; south $49\frac{1}{2}^{\circ}$ E. 42 poles to a stone; south $21\frac{1}{2}^{\circ}$ W. 6.20 poles to a stone; south

32½° E. 27.50 poles to a stone in center of said run on the division line of lands formerly owned by William Matthew Edmiston and Williom E. Arnold; north 31° E. 146 poles to a stone on the south bank of Stone Coal creek; thence down said creek north 25° W. 6 poles to a locust; north 21¾° E. 8 poles to a water elm; north 51½° E. 975 poles to a stone; south 76° E. 2,060 poles to a stone; north 30¼° E. 672 poles to a stone; north 19¼° W. 1,350 poles to a large sugar; south 52° W. 1,390 poles to a stone; north 23¾° W. 26 poles to a hickory; north 64½° W. 98 poles to a stone; north 3¾° E. 23.40 poles to a water elm; north 21½° W. 1,064 poles to a stone at the mouth of Stone Coal creek, and on the north bank of said river; up said river south 44° W. 48 poles to marks made on the ledge of rocks on the east bank of said river; thence north 63° W. 10 poles to the beginning, containing about two hundred and seventy-three acres.

Sec. 3. The territory of said city shall be divided into four wards, bounded as follows:

First ward—Shall include all the land in the boundary on the west side of the West Fork river.

Second ward—Shall include all the land lying between the West Fork river and the alley between and parallel to Main street and Center street running from Town run to Stone Coal on a line with said alley.

Third ward—Shall include the lands lying between the said alley before named and the alley parallel and between Center and Court streets; down to the center of Third street; thence a southeast course along Third street to Center street; thence along on a line with the Buckhannon pike to the boundary line of said town.

Fourth ward—Shall include all the lands lying between the alley last mentioned to Town run and the southeast boundary line of said city.

Sec. 3-a. By order of the council, duly entered on its journal and its books of ordinances, the boundaries of said four wards, or any of them, may from time to time be changed and enlarged, or new wards may be created when by reason of the acquisitions of new territory by the city such changes, enlargements or new wards may be necessary.

Sec. 4. The municipal authorities of said city shall consist of a mayor, and one councilman from each ward, who together shall form a common council, and who shall receive such compensation

as the council shall from time to time determine, and which shall not be increased or diminished during their term of office.

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

Sec. 6. The mayor and councilmen, city attorney, chief of police, city clerk and street commissioner, at the time of their election or appointment, shall be freeholders in said city, and be entitled to vote for the members of the common council of said city, as residents and legal voters therein.

Sec. 7. The city attorney, chief of police, city clerk (who shall be the assessor), and street commissioner, shall be elected to hold their respective offices for a term of two years from the first Monday in April, or until their successors shall have been elected and qualified, and all other officers shall be appointed by the common council.

Sec. 8. On the Tuesday after the third Monday in March, one thousand nine hundred and thirteen, and biennially thereafter there shall be elected by the qualified voters of said city, a mayor, city attorney, city clerk, chief of police and street commissioner, who shall hold their respective offices for two years and until their successors shall be elected and qualified.

Sec. 9. On the same day first mentioned in the preceding section one member of the council shall be elected in each ward in said city, who shall reside in the ward for which he is elected; and on the same day of each alternate year one member of the council shall be elected in each ward of the said city, whose term of office shall be two years from the first Monday in April succeeding his election, and until his successor shall be elected and qualified.

Sec. 10. The voting place of said city, where all elections for city purposes shall be conducted and held, shall be the place ordained, appointed and used by the council for its place of meeting at the time such election shall be held.

Sec. 11. Every male person residing in said city shall be entitled to vote for all officers to be elected under this act, but no person who is a minor, or of unsound mind, or a pauper, or who receives aid from the treasury of said city, or who is under conviction of treason, felony or bribery in an election, or who has not resided in this state for one year, and in the city of Weston for six months prior to the election, and who is not a *bona fide* resident of the ward in which

he offers to vote for the candidates for councilmen shall be entitled to vote at any election.

Sec. 12. In all municipal elections the mode of voting shall be by ballot, but the voter shall be left free to vote by open or sealed or secret ballot, as he may elect. All elections in said city shall be held and conducted, and the results thereof certified, returned and finally determined as nearly as practicable in accordance with the laws in force in this state relating to general elections by the people at the time such election is held; but no registration of voters shall be made unless ordered by the council of said city. The corporate authorities of said city shall perform the duties in relation to such election required by general laws of county courts and county officers.

Sec. 13. When two or more persons shall receive an equal number of votes for councilman or other city officer, such tie shall be decided by the council in being.

Sec. 14. All contested elections shall be heard and determined by the common council for the time being; and the contest shall be made and concluded in the same manner as provided for in contests for county and district officers; and the common council shall conduct the proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Sec. 15. Whenever a vacancy shall occur from any cause in the office of mayor, councilman, city attorney, city clerk, chief of police, or street commissioner, or any other elective office, the council shall immediately fill such vacancy by a vote of a majority of the council until the next election.

Sec. 16. The council shall also have authority to provide by ordinance for the appointment of such other officers as shall be necessary and proper to carry into full force any authority, power or jurisdiction which is or shall be so vested in the said city or in council or mayor, or any officer or body of officers thereof, and to grant such officer so appointed the power necessary or proper for the purpose above mentioned. The tax collector shall have the power to collect all taxes levied and assessed by the council of said city, and all other assessments and money due the said city; and for that purpose shall have the power to distrain and sell property for the enforcement of such payment. And the said council shall, by ordinance, define the duties of all officers so elected or appointed as aforesaid, and allow them reasonable compensation, and which compensation shall not be increased or diminished during their term of office; and shall

require and take from all those whose duty it is to receive funds, **assets** or property, or have charge of the same, such bonds, obligations **and** other writings as they shall deem necessary or proper to insure the faithful performance of their said duties. All officers so elected or appointed by said council shall hold their office or appointment during the will and pleasure of said council, but no appointee shall hold beyond the current year for which he shall have been appointed without a new election by the said council. All officers so appointed or elected may be removed from office for malfeasance, nonfeasance or **misfeasance** by the council. The chief of police shall have all powers, rights and privileges within the corporate limits of said city in regard to the arrest of persons, and the execution and return of process, that can be legally exercised by any constable of Lewis county within the city, and he and his sureties shall be liable for all fines, penalties and forfeitures that a constable of a district is legally liable to, for any failure or dereliction in his said office, to be recovered in the same manner and in the same courts that the same fines, penalties and failures are now recoverable against such district constable. It shall be the duty of the collector of taxes to collect all city taxes, licenses, levies, assessments, and such other claims as are placed in his hands for collection by the council, and he may distrain and sell for such taxes and assessments, and he shall have in all other respects the same power as a sheriff of a county to enforce the payment and collection thereof. All officers appointed by the council must be residents of the said city at the time of their appointment, and a removal from said city shall vacate their said offices.

Sec. 17. All officers elected and appointed under this act shall each, before entering upon the duties of his office, and within ten days from the time of his election or appointment, give bond required from any officer, take and subscribe an oath to faithfully and impartially discharge the duties of his office, and the oath to support the constitution of the United States, and the constitution of the state of West Virginia. The mayor having taken such an oath may administer the same to the councilmen and other officers. Certificates of said oath shall be recorded in the journal kept by the council.

Sec. 18. If any one who shall have been duly elected mayor, councilman, or to any other office herein provided for, shall not have been eligible as herein prescribed, or shall refuse or fail to take the oath and give the bond required under this act, within the time

prescribed, the council for the time being shall declare his office vacant and proceed to fill said vacancy by appointment as herein provided.

Sec. 19. The elective officers shall enter upon the duties of their offices within two weeks after they shall have been elected and shall continue therein until their successors are elected or appointed and qualified.

Sec. 20. The mayor shall be the chief executive officer of the said city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be *ex officio*, a justice and conservator of the peace within the city, and shall, within the same, have, possess and exercise all the powers and perform all duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases. Any warrant or other process issued by him may be executed at any place in the county. He shall have control of the police of the city, and may appoint special police officers whenever he deems it necessary, and may suspend any policeman for cause; and it shall be his duty to see that the peace and good order of the city are preserved; and that persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said city before issuing his warrant therefor. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment thereof may commit the offending party to the jail of Lewis county or other place of imprisonment in such corporation, if there be one, until the fine or penalty and costs shall be paid, but the term of imprisonment in such case shall not exceed thirty days. In all cases where a person is sentenced to imprisonment, or to the payment of a fine of ten dollars or more, (and in no case shall a judgment for a fine of less than ten dollars be ordered or given by the mayor, if the defendant, his agent or attorney, objects thereto) such person shall be allowed an appeal from such decision to the circuit court of Lewis county, upon the execution of an appeal bond, with surety deemed sufficient by the mayor, in a penalty double the amount of the fine and costs imposed by the mayor, with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such an appeal. If such appeal be taken, the warrant of arrest, (if there be any) the transcript of

judgment, the appeal bond and other papers in the case, shall be forthwith delivered by the mayor to the clerk of said court, and the court shall proceed to try the case as upon indictment or presentment, and render such judgment, including that of costs, as the law and the evidence may require, but no judgment shall be rendered against said city for costs on such appeal.

The mayor may from time to time recommend to the council such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county, or to any place of imprisonment in said city by him, except it be to answer an indictment, or be under provisions of sections two hundred and twenty-seven and two hundred and twenty-eight of chapter fifty of the code of this state, shall be paid by said city. Said mayor shall pay all moneys received by him for fines or by virtue of his office belonging to said city to the treasurer of the city within one week after he receives the same. He shall receive a compensation for his services, to be fixed by the council, which shall not exceed five hundred dollars per annum, exclusive of fees, and which shall not be increased or diminished during his continuance in office.

Sec. 21. The city clerk shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the city, in the city building, safe or vault, if there be one. In absence from the city, or in the case of the sickness or disability of the mayor, or during any vacancy in the office of mayor, the city clerk shall perform the duties of the mayor which pertain to him as the chief executive of said city, and be vested with all powers necessary for the performance of such duties, except that he shall not vote in council, or become an *ex officio* presiding officer thereof. He shall be conservator of the peace within the city.

Sec. 21-a. The council of said city shall, by order, designate and appoint a councilman who shall act as mayor in the absence from the city of both mayor and city clerk, or from any meeting of the said council of the mayor, or in the event of the disability of both. And the councilman so designated shall, while he continues as a councilman, from time to time as they arise, act as the mayor of the said city in any of the contingencies in this section above mentioned, until some other councilman shall be designated, as aforesaid, and while so acting, he shall be vested with all the powers,

authority, and functions of mayor and shall perform all the duties of that office, including the duty of presiding over council.

Sec. 22. The presence of a majority of the council shall be necessary to make a quorum for the transaction of business.

Sec. 23. The council shall cause to be kept by the city clerk, in a well bound book, to be called the journal, an accurate record of all the proceedings, ordinances, acts, orders, and resolutions, and in another book, to be called the book of ordinances, accurate copies of all general ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any citizen of the city of Weston, or any one required to pay taxes therein, or who may be otherwise interested. All oaths and bonds of officers in the city, and all papers of the council shall be endorsed, filed and securely kept by the said clerk. The bonds of officers shall be recorded in a well bound book to be called the record of bonds. Said city clerk shall perform all such other duties as may by ordinance of the council be prescribed. Said council may bind and print in pamphlet form all the general ordinances of said city, and transcripts of said ordinances, acts, orders, and resolutions, certified by the city clerk, under the seal of the city, shall be deemed *prima facie* correct when sought to be used before any court, or before any justice.

Sec. 24. At a meeting of the council the proceedings of the last meeting shall be read and corrected, if erroneous, and signed by the presiding officer for the time being, and countersigned by the city clerk. Upon the call of any member, the ayes and noes upon any question shall be taken and recorded in the journal, and the roll for that purpose shall be called alphabetically.

Sec. 25. The mayor shall have a vote on all questions, and shall decide all ties.

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

Sec. 27. All moneys belonging to the city shall be paid over to the

city treasurer; and no money shall be paid out by him except as the same shall have been appropriated by the council, and upon an order signed by the mayor and city clerk, and not otherwise.

Sec. 28. The council shall adopt all needful and just ward regulations, whether general or special, for the good of the citizens thereof; and shall also authorize street expenditures in the several wards as equity and justice demand, and may authorize the collection of a special tax for a specific purpose.

Sec. 29. No money shall be appropriated, and no debt shall be contracted for any purpose whatever, except that the funds to meet the same shall have been first provided by levy duly laid, in accordance with the provisions of this act; and no contract shall be entered into involving or anticipating future levies, unless all questions connected with the same shall have been first submitted to a vote of the people and have received three-fifths of all the votes cast for and against the same.

Sec. 30. The council of said city shall have the power to lay off, vacate, close, open, alter, grade and keep in good repair, the roads, streets, alleys, pavements, sidewalks, crossings, cross-walks, drains and gutters therein for the use of the citizens and the public, and to improve and light the same, and to keep them free from obstructions of every kind; to regulate the width of the pavement, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time of holding the same, provide suitable and convenient buildings therefor, and to prevent the forestalling of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive, or unwholesome; to prohibit or regulate slaughter houses, tan houses and factories within the corporate limits; and to prohibit the exercise of any offensive business, trade or employment; to abate all nuisances within the corporate limits, and to require or compel the abatement or removal thereof at the expense of the person causing the same, or by or at the expense of the owner of the ground at the place they are found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep and other animals and fowls of all kinds from going or being at large in said city; and as a means of prevention, said council may provide for the impounding and confining of said animals and fowls and, upon the failure to reclaim, for the sale thereof; to protect places of

divine worship and preserve order in and about the premises where such worship is held; to protect places of public instruction and schools, and to preserve order in and about all the school buildings; to regulate the keeping of gunpowder and other dangerous explosives and substances; and to protect places of lawful assemblies; to regulate the building of houses and other structures; for the maintaining and making division fences by the owners of adjacent premises; for the proper drainage of city lots and other parcels of land by or at the expense of the owner or occupant thereof, when such drainage shall be deemed necessary for the protection of the public health; to provide against danger or damage by fire; to punish assaults and batteries, gambling resorts and gambling devices of every kind and character, including slot machines; to prohibit the keeping or loitering in, or visiting houses of ill fame, or loitering by persons in a state of intoxication on the streets, or congregating or loitering in saloons; to prevent lewd or lascivious conduct, the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day, and to provide for its orderly and lawful observance; to protect the persons of those residing or being within the city; to appoint, when necessary, a police force, permanent or temporary, to assist the police in the discharge of their duties; to prevent swearing, the illegal sale of intoxicating liquors, mixtures and other preparations, porter, beer, ale, wine or other drinks of like nature; to build, or purchase, or lease, and to use a suitable place of imprisonment within said city for the safe keeping and punishment of persons charged with or convicted of the violation of ordinances; to erect, or authorize or prohibit the erection of gas or water works within the city limits; to prevent injury of such works, or the pollution of any gas or water used or intended to be used by the people or by individuals; to provide for the cleanliness and healthfulness of all rivers or streams within the city limits; to provide for and regulate the measuring and weighing of hay, coal, lumber, or other articles sold or kept or offered for sale within said city, and to establish rates and charges for the use thereof; to create by ordinance such committees and boards and delegate thereto such authority as may be deemed necessary or advisable; to regulate the running speed of engines and cars and vehicles of every kind and character within said city, and to prohibit them from standing on street crossings; to provide for the annual assessment of taxable property within said city, including dogs kept therein, and to regulate their running at large; to provide for a revenue for the city for municipal purposes and to appropriate such revenues to its ex-

penses, and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within said city; to preserve and maintain peace, quiet and good order within said city; and to preserve and promote the health, safety and well-being of the inhabitants thereof.

Sec. 31. The said council shall have authority to pass all ordinances (not repugnant to the constitution of the United States or to the constitution and laws of the state of West Virginia, or to this act), which shall be necessary or proper to carry into full effect and force the authority and jurisdiction which is or shall be granted to or vested in said city, or in the council thereof, or in any officer or body of officers of said city, and to enforce any and all ordinances by reasonable fines and penalties, and by imprisonment; and upon failure to pay any fine or penalty imposed, by compelling defaulting party to labor without compensation at any of the public works or improvements, undertaken or to be undertaken by said city, or to labor at any work which said city may lawfully employ labor upon, at such rate per diem as the council may fix (but not at a less rate than is fixed by said council for like labor for other employes of said city), until any fine or fines imposed upon any such offender or offenders by said city shall have been fully paid and discharged, after deducting charges of support while in custody of the officers of said city; *provided, however*, that no fines shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned or compelled to labor as aforesaid more than thirty days for any offense. The jurisdiction of said city for police and criminal purposes shall extend one mile beyond the corporate limits of said city in all directions.

In addition to the powers already enumerated, the said city council shall have power to order elections for bonding the city as provided by chapter forty-seven-a of the code of West Virginia of one thousand nine hundred and six, purchase, build, construct and maintain plants and erect buildings, or other necessary structures, with equipments for furnishing the city or its inhabitants, for public or private consumption, at a reasonable cost to the latter, with gas or other material, for both fuel and illuminating purposes, and electric or other lights for the lighting of its streets and alleys, and public and private buildings; to construct, improve, extend and expand water works for said city, and to contract for and to construct and own an adequate supply of pure, healthful water for said city, and its inhabitants, for public and private consumption, and do all things neces-

sary to secure to said city and its inhabitants an adequate supply of pure and wholesome water, and to provide, contract for and construct an adequate sewerage system for said city.

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

And at each general state election, the question of granting or refusing licenses for the sale of spirituous liquors, wine, porter, ale, beer and drinks of like nature, shall, upon the petition in writing of at least twenty-five per cent of the votes cast at the last general election of said county being presented to said county court of Lewis county within thirty days prior to said election, be submitted to the voters of the county. The persons voting in favor of granting such license shall have on their ballots the words printed or written: "for license," and those voting against the granting of such license shall have on their ballots printed or written: "against license." If a majority of the votes cast on this question be in favor of license, it shall be the duty of the council, until the next general election, to grant such license, subject to the approval of and license therefor granted by the county court to any person applying therefor and entitled to the same under the provisions of law; but if in the said county election, a majority of the votes so cast be opposed, no such license shall be granted. Each ballot voted shall have written or printed on it the words "for license," and the words, "against license," so that the voter of any ticket may vote by erasing the one term or the other so as to conform to his desires. But nothing in this act contained shall be construed to authorize the granting of such license within said city in case the granting of such license has, under general law, or by the constitution of this state, been prohibited within the county of Lewis.

The council shall require from every person so licensed a bond with good security, to be approved by the council, in a penalty of at least three thousand five hundred dollars, payable to said city by its corporate name, conditioned as prescribed in section twenty-eight of chapter thirty-two of the code of West Virginia, and may revoke such license at any time the condition of said bond be broken, upon five days' previous notice to the person holding the same. And suits may be prosecuted and maintained on such bond as prescribed in said section of said chapter by the same person in the same manner, and to the same extent, as upon the bonds mentioned in said section, and

all the provisions of said section in relation to the bonds therein mentioned shall be applicable to the bonds required by this section.

Sec. 32. The council of said city shall have the authority within said city to require and grant licenses to owners of horses, hacks, carts, wagons, drays, bicycles, automobiles and every description of wheeled vehicles and carriages kept for hire, and to levy and collect taxes thereon, and subject the same to such regulations as the interests and convenience of the inhabitants of said city, or the protection of paved streets, in the opinion of the council shall require; also to license and tax hawkers, auctioneers, junk dealers and peddlers within said city, and persons who temporarily station themselves upon a street to sell or exhibit articles, and all butchers and vendors of meats, fruits or vegetables on the streets of the city may be required by the council to take out a license therefor. But nothing herein contained shall be construed to require any inhabitant of the county of Lewis to obtain a city license for the purpose of selling to the inhabitants of said city any meat, fruit or vegetables raised or produced by such inhabitant within said county. No license to permit the permanent occupancy for private use of an open street, alley or public square, or any part thereof, or a use for private purposes that obstructs the free use of the streets, shall be given or granted. And said council shall have the authority by city ordinance, to grant or refuse to grant a license to keepers of hotels, inns, taverns and boarding houses, but no license shall be granted for anything prohibited by state law.

Sec. 33. Franchises shall be granted by the council, allowing to persons or corporations, for a limited time, such occupancy of portions of the street as may be necessary for works of public utility and service, such as steam railway tracks, poles and trolley wires, telephone and telegraph poles and subways, electric light and other electric poles, wires and subways, and gas and steam pipe lines. But no such franchise shall hereafter be granted except under the following restrictions:

First. No ordinance granting any franchise for the using of the streets, alleys or public grounds of the city for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first proposed in the council and notice of the object, nature and extent of such franchise shall have been published at least thirty days by the applicant in some newspaper published in the city of Weston, before being acted upon, and shall have received the votes of a majority of the members of the council at a regular meeting or meetings and after said publication.

The votes thereon shall be taken by ayes and noes, and the same entered upon the journal. No such ordinance shall take effect until the expiration of twenty days after its passage; and if within the said twenty days a petition be filed with the city clerk signed by one-fifth of the qualified voters of the city, based upon the number of votes cast at the last city election, requesting it, the council shall submit such ordinance to the qualified voters of the city for ratification or rejection, at a special election to be held for that purpose within forty-five days after such petition is presented, and the votes for ratification and for rejection cast at such election shall be entered upon the journal. If a majority of the votes cast at such election shall be in favor of ratification, then such ordinance shall take effect from the time the vote is so entered upon the journal.

Second. Every grant of any such franchise shall be for a limited period of time. If no limit be expressly provided in the grant, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding thirty years, except that in case of a street railway franchise such period may be not exceeding fifty years; but if such franchise period is to exceed thirty years, the council must, and without such petition, submit such ordinance for ratification or rejection to such vote as is required by the first clause of this section.

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

Fourth. No grant of any franchise shall be made without, at the time of making it, providing that the city shall receive in consideration thereof a compensation, to be paid annually during the whole period; *provided, however,* that the principle of competition shall be employed by the council where it is offered so that the franchise, with prescribed terms and conditions as to its extent, and as to the rates to be charged to the public by it for its services, will be given to the person or corporation bidding or agreeing to pay therefor to the city the highest compensation, or so that the franchise, with prescribed conditions as to its extent, and the compensation that must be paid therefor, will be given to the person or corporation that will agree to render services to the public at the lowest rates.

Fifth. No grant of a franchise or the extension of, or an addition

to, any line of such work, over any additional street or territory of the city, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension; and if the franchise of the principal company or work is one which was granted before this act goes into effect, and is not limited as to time, the franchise granted for the extension or addition shall nevertheless be made subject to the conditions hereof including a time limit of not exceeding thirty years. If a franchise be secured from the city by an individual or by an independent or new company, and the work constructed thereunder afterwards becomes a part of it, or be operated as a part of a larger work of the same kind whose franchise was previously obtained and is limited to expire earlier, such later franchise shall, by reason of such annexation, merger, or single operation, expire simultaneously with such earlier franchise.

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

Sec. 33-a. Any twenty-five or more freeholders residing in said city, desiring to increase the corporate limits thereof, may file their petition in writing with the council thereof, setting forth the changes proposed in the metes and bounds of said city and asking that a vote be taken upon the proposed change. The council shall thereupon order a vote of the qualified voters residing in said city to be taken upon the proposed change, at a time and place therein to be named in the order, not less than twenty, nor more than thirty days from the date thereof. The said council shall at the same time order a vote of all such voters owning any part of such territory, whether they reside therein or not, to be taken upon the question, on the same day at some convenient place or near said additional territory, which vote shall be taken, superintended and conducted, and the result thereof ascertained, certified and returned, in the same manner and by the same persons that elections for city officers are held, superintended, conducted, ascertained, certified and returned. The ballots cast upon such question shall have written or printed on them the words, "for increase of corporate limits," or "against increase of corporate limits," as the voter may choose. If a majority of all votes cast in said city,

and a majority of all the votes cast by persons residing on or owning any part of the additional territory proposed to be included in said city limits, be in favor of the proposed change, the city limits shall be proposed from such petition from the entry of the order provided for in the following section.

Sec. 34. The council of said city shall enter the result of such vote upon its minutes and when the change proposed is adopted, as provided in the next preceding section, they shall certify the same to the circuit court of Lewis county, and said court shall thereafter enter an order in substance as follows: "A certificate of the council of the city of Weston was this day filed, showing that the corporate limits of the city of Weston have been increased in the manner required by law, and by such change the corporate limits are as follows: Beginning at (here recite the boundary as changed.) It is therefore ordered that said increase in said corporate limits be, and the same is hereby approved and confirmed, and the clerk of the court is directed to deliver to the said council a certified copy of this order as soon as practicable after the rising of this court," and, from and after the date of such order, the corporate limits of said city shall be as set forth therein.

Sec. 35. A book, well bound and indexed, to be denominated the "docket," shall be kept in the office of the mayor, in which shall be noted each case brought before or tried by him, together with the proceedings therein, including a statement of the complaint, the summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same. The record of each case shall be signed by the mayor, and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office; and the mayor shall deliver to his successor the docket and all books and papers pertaining to his office.

Sec. 36. The council shall have the power to appoint and constitute a board of health consisting of one reputable physician, and two of its own members, which said board of health under the supervision and with the approval of said council, shall have full power to make all needful rules and regulations for the keeping and maintaining of the said city in proper and healthful condition; and when such board of health shall have been elected and organized, it shall have exclusive control of all matters relating to the public health within the limits of the city.

Sec. 36-a. The council shall cause to be made annually and spread upon its minute book an accurate estimate of all sums which are or may become lawfully chargeable against the city and which ought to be paid within one year; and it shall order a levy of so much as will in its judgment be necessary to pay the same. Such levy shall be upon all tithables and upon all real and personal property therein subject to the state and county taxes, including a poll tax of not more than one dollar upon each male resident of said corporation over twenty-one years of age; *provided*, that such levy shall not exceed one dollar on each tithable and thirty-five cents on every one hundred dollars of the ascertained value of such property.

At least once in each year the council shall cause to be made up and published in one or more newspapers of the city a statement of the revenue received from the different sources, and of the expenditures upon the different accounts, for the preceding year or portion of year, as the case may be.

Sec. 37. It shall be the duty of the city clerk, who shall be the assessor, to make an assessment of the property within the city subject to taxation, substantially in the manner and form in which assessments are made by the assessor of the county, and return the same to the council on or before the first day of June in each year, and for this purpose he shall have all powers conferred by law on county assessors. He shall list the number of dogs in the city and the names of the persons owning the same, which list shall be returned to the council. (See chapter forty-seven, section forty-one, code of West Virginia.) In order to aid the said council in ascertaining the property and tithables subject to taxation by said city, the city clerk (who shall act as assessor) of said city shall have access to all books and public records of Lewis county without expense to said city or assessor, and he shall also have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation in said city as are granted and imposed upon the county assessors throughout the state by the general state law, and the council shall also have authority to prescribe by ordinance and such other rules and regulations as may be necessary to enable and require such assessor to ascertain and properly assess all property and tithables liable to be taxed by said city so that such assessment and taxation shall be uniform. And the said city assessor, making the valuation for assessment, shall make the same assessment for both real and personal property as the assessor of said county for the as-

assessment year assessed by the county assessor, and to enforce such ordinances by reasonable fines and penalties.

Sec. 38. There shall be a lien upon real estate within said city for city taxes assessed thereon and for all fines and penalties assessed to or imposed upon the owners thereof by the authorities of said city from the time the same is so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state and county, and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of the taxes thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for city taxes, interest and commissions thereon, in the same manner, at the same time, and by the same officers as real estate is sold for state taxes.

Sec. 39. It shall be the duty of the city collector to receive one copy of the assessor's book, receipting to the council for the same, and for the taxes therein extended, and it shall be his duty to collect from the parties the entire amount of the taxes with which they are severally charged from and after the first day of June in each year, until the first day of August, of each year, and he shall in said book write the word "paid" opposite the name of the person so paying, and shall also receipt to said taxpayer for the taxes so paid.

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

He shall pay out the money in his hands upon the order of the council, signed by the mayor and clerk.

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

He shall receive all taxes upon licenses and receipt to the party

paying the same by the endorsement upon the permit granted by order of the council, which permit shall be furnished him by the clerk, and charge himself with the amount so received, and report to the council at its next regular meeting the amount so received by him.

He shall, upon all moneys coming into his hands as such treasurer, and duly paid or turned over to him upon orders of the council, receive as compensation therefor a sum to be fixed by the council, not exceeding five per cent of the amount collected.

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

Sec. 40. The council shall prescribe by ordinance therein which licenses of all kinds shall be applied for and granted, and it shall require the payment of the taxes thereon before delivery to the person applying therefor.

Sec. 41. The general provisions of the state law, as embodied in the code of West Virginia, relating to state licenses, shall be deemed applicable to licenses of a similar character therein mentioned, when granted by or under the authority of the council of the said city.

Sec. 42. Licenses for the keeping of dogs shall expire on the thirtieth day of April next after they are granted, and all other licenses may be for such time as the council may determine.

Sec. 43. The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate, for streets, alleys, drains, markets, market grounds, city buildings, or other work or purpose of public utility. Such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia of one thousand nine hundred and six, and the expenses thereof shall be borne by the city.

Sec. 44. The regularly elected council of said city in being at the time, shall in advance of every election by this act provided to be held, appoint election officers to conduct the same, and otherwise provide for a proper holding thereof.

Sec. 45. The said city shall succeed to all rights, powers and re-

sponsibilities heretofore conferred upon "the city of Weston," and its predecessor, the "town of Weston," and all regularly elected officers of said city acting as such at the time this act takes effect, shall continue until the first Monday in April, one thousand nine hundred and thirteen, and until their successors, the officers herein mentioned, are elected or appointed and qualified to exercise the powers, perform the duties, and receive the compensation heretofore conferred, prescribed and allowed by general law or by ordinance of said city. Such ordinances not inconsistent with this act as are in force at the time heretofore referred to shall continue to have full operation and effect as ordinances of the city of Weston until amended, repealed or suspended by the council of said city.

Sec. 46. All acts or parts of acts inconsistent with this act are hereby repealed, but this act shall not be construed to repeal, change or modify any previous acts not inconsistent with this act, or to take away any power heretofore conferred upon the "the city of Weston," or its predecessor, the "town of Weston," or upon the mayor or council, or any other of the officers of said city, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

(Senate Bill No. 220.)

CHAPTER 91.

AN ACT to amend and re-enact section ninety-four of an act passed February eleventh, one thousand nine hundred and seven, and amended by acts passed February first, one thousand nine hundred and eight, and February twenty-first, one thousand nine hundred and nine, entitled, "an act to incorporate the city of Wheeling, in Ohio county."

(Passed February 21, 1913. In effect from passage. Approved by the Governor February 22, 1913.)

Sec.

94. Council shall have control of streets, alleys, etc.; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section ninety-four of an act passed February eleventh, one thousand nine hundred and seven, and amended by acts passed Feb-

ruary first, one thousand nine hundred and eight, and February twenty-fourth, one thousand nine hundred and nine, entitled, "an act to incorporate the city of Wheeling, in Ohio county," be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 94. The council shall have the custody and control of the streets, alleys and public grounds of the city, and with the same plenary power and authority given to council of cities, towns or villages by the general laws of West Virginia.

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

HOUSE JOINT RESOLUTION NO. 2.

(Adopted February 4, 1913.)

Joint resolution of the legislature of the state of West Virginia, ratifying and approving the proposed amendment to the constitution of the United States, amending the first paragraph of section three of article one of the constitution of the United States, providing for the election of United States senators by the people of the several states.

WHEREAS, The sixty-second congress of the United States of America at the second session thereof, begun and held in the city of Washington, on Monday, the fourth day of December, one thousand nine hundred and eleven, proposed an amendment to the constitution of the United States as follows:

"The senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

"When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies; *provided*, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

"This amendment shall not be construed as to affect the election

or term of any senator before it becomes valid as a part of the constitution;" therefore, be it

Resolved by the Legislature of West Virginia, a majority of the members of each House agreeing thereto:

That the said proposed amendment to the constitution of the United States be and the same is hereby ratified and approved.

HOUSE JOINT RESOLUTION NO. 18.

(Adopted February 7, 1913.)

A joint resolution of the legislature of West Virginia memorializing the congress of the United States to enact into law the bill prohibiting the interstate shipment of liquors into dry territory.

WHEREAS, A measure is now pending before the congress known as the "Kenyon-Shepard Bill," which is to be voted on February tenth, one thousand nine hundred and thirteen; and,

WHEREAS, The state of West Virginia did on last November by a majority of over 92,000 ratify an amendment to its constitution prohibiting the manufacture and sale of liquor within its borders after July first, one thousand nine hundred and fourteen; and,

WHEREAS, This action of the people of West Virginia will be largely nullified unless federal regulation is enacted to prevent the shipment of liquor from other states to and for sale in West Virginia; be it

Resolved, That the legislature of West Virginia, being heartily in favor of this proposed legislation, does hereby request its representatives in the house of representatives and senate to vote for the said "Kenyon-Shepard Bill," and to use their best endeavors for its enactment; be it further

Resolved, That these resolutions be transmitted to each member of the senate and house of representatives from West Virginia with the request that they be recorded on the journals of their respective bodies.

HOUSE JOINT RESOLUTION NO. 22.

(Adopted February 18, 1913.)

WHEREAS, What is known as the home guard soldiers of this state were called into active service of this state on behalf of the preservation of the union in the late civil war between the states; and

WHEREAS, These soldiers did good and valuable service in the time of most extreme danger and peril, leaving their homes and during their service endured extreme hardships under adverse circumstances, and in most instances their services in the preservation of the union were as valuable as that of the soldier enlisted in the regular army of the United States; and

WHEREAS, They are now all old, infirm and feeble and unable to work to support themselves in such a manner as they should be cared for, and many of them are poor and disabled from said service; and

WHEREAS, Our national government has not provided for them or recognized their services in any of the pension laws of the United States as heretofore passed by congress, it is just and right that these old surviving veterans, their widows and orphans, should have a right to some consideration in the pension laws of the United States; therefore, be it

Resolved by the Legislature of West Virginia:

That our senators and representatives in the congress of the United States be requested and instructed to use all urgent and diligent means to secure any proper pension law extending the benefit to such West Virginia state troops and home guards as served sixty days in said service and were honorably discharged, the same as United States soldiers, and that the secretary of state furnish to each of our representatives in congress a copy of these resolutions.

SENATE JOINT RESOLUTION NO. 1.

(Adopted January 31 1913.)

To ratify the proposed amendment to the constitution of the United States providing for laying and collecting taxes on incomes.

Resolved by the Legislature of West Virginia, a majority of the members of each house agreeing thereto:

That the proposed amendment to the constitution of the United States as follows:

“The congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several states and without regard to any census or enumeration,” be ratified.

SENATE JOINT RESOLUTION NO. 4.

(Adopted January 31, 1913.)

A joint resolution of the legislature of West Virginia memorializing the congress of the United States to enact into law senate bill six thousand two hundred and forty-seven, and to provide for the payment to West Virginia of the sums of money due the state from the disposition of the lands ceded by Virginia to the United States March first, one thousand seven hundred and eighty-four, and to carry out the trust embodied in said cession of Virginia to the United States.

WHEREAS, On the twentieth day of October, one thousand seven hundred and eighty-three, Virginia authorized a cession of the northwest territory to be made to the United States, and on March first, one thousand seven hundred and eighty-four, her deed of cession was completed, whereby Virginia yielded to the congress of the United States, for the benefit of said states, all right, title and claim which the said commonwealth had to the territory northwest of the River Ohio, subject to the conditions annexed to the said act of cession; and,

WHEREAS, The following were the proceedings of congress, which occurred on March first, one thousand seven hundred and eighty-four, in and about said cession:

Proceedings of Congress.

“March first, one thousand seven hundred and eighty-four, Virginia, through her delegates in the continental congress, Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, completed the act of cession, the following proceedings being had in congress:

“On motion of Mr. Howell, of Rhode Island, the following resolution was adopted :

“WHEREAS, The general assembly of Virginia, at their session commencing on the twentieth day of October, one thousand seven hundred and eighty-three, passed an act to authorize their delegates in congress to convey to the United States, in congress assembled, all the right of that commonwealth to the territory northwest of the River Ohio; and,

“WHEREAS, The delegates of said commonwealth have presented to congress the form of a deed proposed to be executed pursuant to the said act, in the words following :

“To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, the underwritten delegates for the commonwealth of Virginia, in the congress of the United States of America, send greeting :

“WHEREAS, The general assembly of the commonwealth of Virginia, at their sessions begun on the twentieth day of October, one thousand seven hundred and eighty-three, passed an act entitled ‘an act to authorize the delegates of this state in congress to convey to the United States, in congress assembled, all the right of this commonwealth to the territory northwestward of the River Ohio,’ in these words following, to-wit :

“WHEREAS, The congress of the United States did, by their act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several states in the union having claims to waste and unappropriated lands in the western country a liberal cession to the United States of a portion of their respective claims for the common benefit of the union ; and,

“WHEREAS, This commonwealth did, on the second day of January, in the year one thousand seven hundred and eighty-one, yield to the congress of the United States, for the benefit of said states, all right, title and claim which the said commonwealth had to the territory northwest of the River Ohio, subject to the conditions annexed to the said act of cession ; and,

“WHEREAS, The United States, in congress assembled, have, by their act of the thirteenth of September last, stipulated the terms on which they agree to accept the cession of this state, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this state to accept thereof,

in full confidence, that congress will, in justice to this state for the liberal cession she has made, earnestly press upon the other states claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal for the common benefit and support of the union.

"Be it enacted by the General Assembly:

"That it shall and may be lawful for the delegates of this state to the congress of the United States, or such of them as shall be assembled in congress, and the said delegates, or such of them so assembled are hereby fully authorized and empowered, for and on behalf of this state, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign and make over unto the United States in congress assembled, for the benefit of said states, all right, title and claim, as well of soil as jurisdiction, which this commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying and being to the northwest of the River Ohio, subject to the terms and conditions contained in the before-recited act of congress of the thirteenth day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into states, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit: and that the states so formed shall be distinct republican states and admitted members of the federal union, having the same rights of sovereignty, freedom and independence as the other states.

"That the necessary and reasonable expenses incurred by this state in subduing any British posts or in maintaining forts and garrisons within and for the defense, or in acquiring any part of the territory so ceded or relinquished shall be fully reimbursed by the United States; and that one commissioner shall be appointed by congress, one by this commonwealth and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this state which they shall judge to be comprised within the intent and meaning of the act of congress of the tenth of October, one thousand seven hundred and eighty, respecting such expenses; that the French and Canadian inhabitants and other settlers of the Kaskaskies, St. Vincents and the neighboring villages

who have professed themselves citizens of Virginia shall have their possessions and titles confirmed to them and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this state, shall be allowed and granted to the then colonel, now Gen. George Rogers Clark, and to the officers and soldiers of his regiment who marched with him when the post of Kaskaskies and St. Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio, as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia. That in case the quantity of good land on the southeast side of the Ohio, upon the waters of the Cumberland river and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops, upon continental establishment, should, from the North Carolina line bearing in farther upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiencies should be made up to the said troops in good lands, to be laid off between the river Scioto and Little Miami, on the northwest side of the River Ohio, in such proportion as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States and not reserved for or appropriated to any of the before-mentioned purposes or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose and for no other use or purpose whatsoever:

Provided, That the trust hereby reposed in the delegates of this state shall not be executed unless three of them, at least, are present in congress; and,

WHEREAS, The said general assembly, by the resolution of June sixth, one thousand seven hundred and eighty-three, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, delegates to the said commonwealth in con-

gress for one year from the first Monday in November then next following, which resolution remains in full force:

"Now, therefore, know ye that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, by virtue of the power and authority committed to us by the acts of the said general assembly of Virginia before recited, and in the name and for and on behalf of the said commonwealth, do by these presents convey, transfer, assign, and make over unto the United States, in congress assembled, for the benefit of the said states, Virginia inclusive, all right, title and claim, as well of soil as jurisdiction, which the said commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying and being to the northwest of the River Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony thereof we have hereunto subscribed our names and affixed our seals in congress the first day of March, in the year of our Lord, one thousand seven hundred and eighty-four, and of the independence of the United States the eighth.

Resolved, That the United States in congress assembled are ready to receive this deed whenever the delegates of the state of Virginia are ready to execute the same.

"The delegates of Virginia then proceeded and signed, sealed and delivered the said deed, whereupon congress came to the following resolution:

Resolved, That the same be recorded and enrolled among the acts of the United States in congress assembled;"

WHEREAS, By said proceedings the state of Virginia granted to the United States the territory embracing the states of Ohio, Indiana, Illinois, Wisconsin, Michigan, part of Minnesota, amounting to one hundred and seventy million (170,000,000) acres of land; and

WHEREAS, Said cession of the state of Virginia to the United States of America was not an absolute gift, but the same was upon expressed conditions, as follows, to-wit, the same being set out in the clause of the act of Virginia and in the deed of cession:

That all land within the territory so ceded to the United States and not reserved or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation, or federal alliance, of the said states, Virginia inclusive, according to their usual respective pro-

portions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose and for no other use or purpose whatsoever; and,

WHEREAS, West Virginia until the twentieth day of June, one thousand eight hundred and sixty-three, was a part of the commonwealth of Virginia, and upon said twentieth day of June, one thousand eight hundred and sixty-three, was formed into the state of West Virginia; and,

WHEREAS, The United States after said grant went into effect expressly recognized that said grant was not absolute in its terms, but was upon conditions; and,

WHEREAS, The conditions of said grant were not carried out as specifically set out in the act of the general assembly of Virginia and in the deed of cession, and said land was not used for the benefit of all of the states as expressly provided for in said act of cession, but congress appropriated 38,868,212 acres of land and practically three millions of dollars derived from the sale of these public lands to the states of Ohio, Indiana, Illinois, Michigan, Wisconsin and Minnesota, and the same were used entirely and absolutely for local purposes within said states for the construction of schools, canals, roads and other local purposes therein, thus in no manner carrying out the reservations in said deed of cession. The value of said land so donated to local uses at the price at which said lands were fixed per acre would make the value of said donation for local purposes for said states, contrary to the terms of said deed of cession, amount to \$80,695,078; and by the action of the United States, in reference to said conditional cession, one-fifth of the land conveyed by Virginia under such conditional cession has been disposed of and Virginia has derived no use and benefit for the same, Virginia's proportion in the general charge and expenditure being about one-seventh of the whole, giving her interest in the lands not applied as directed by the deed at about one-seventh of the whole; and,

WHEREAS, Senate bill six thousand two hundred and forty-seven, to provide for the bringing of suits against the United States by Virginia, West Virginia, Kentucky, Delaware, Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina, New Hampshire, North Carolina and Rhode Island, has been introduced in the senate of the United States by William E. Chilton, a senator from West Virginia, for the purpose of allowing each of the said

states to institute a suit in the court of claims in and about the matters arising from said cession; and,

WHEREAS, West Virginia being part of the original commonwealth of Virginia is directly interested in the adjustment of Virginia's reserve interest in the lands ceded to the United States March first, one thousand seven hundred and eighty-four; therefore, be it

Resolved, by the Senate of the State of West Virginia, the House of Delegates concurring therein:

That the congress of the United States be memorialized to enact said bill into law, allowing an adjustment of the sums of money due the state of West Virginia derived from the disposition of the lands ceded by Virginia to the United States March first, one thousand seven hundred and eighty-four, in contravention of the terms of the said cession to the government of the United States, and that the just proportion of the amount justly due the state of Virginia be held for the use and benefit of the state of West Virginia, and that the senators and representatives of the state of West Virginia in the congress of the United States be requested to use all honorable efforts to bring about the action of the congress of the United States, so that the rights of West Virginia in the premises may be protected, and that her part of the sums of money above set out shall be paid to her under and according to the terms of the convention aforesaid between Virginia and the United States.

SENATE JOINT RESOLUTION NO. 16.

(Adopted February 21, 1913.)

Proposing an amendment to the constitution of the state of West Virginia, by adding an additional section creating the office of lieutenant-governor, defining his qualifications, prescribing his functions and duties, providing for the succession to the office of governor and for the presidency of the senate.

Resolved by the Legislature of West Virginia, two-thirds of the members elected to both houses agreeing thereto:

That the constitution of the state of West Virginia be amended by adding thereto a section as follows:

The office of lieutenant-governor is hereby created. The lieutenant-governor shall possess the same qualifications that are or may be prescribed for the governor. He shall be elected at the same time and for the same term as the governor.

The lieutenant-governor shall be *ex officio* president of the senate, but shall have no vote therein, except in case of a tie. The senate shall have the power to elect from its own body a president *pro tempore*, who shall preside over the senate in case of a vacancy in the office of lieutenant-governor, in case of the absence or inability to act of the lieutenant-governor, or in case the lieutenant-governor is acting as governor; and in any of these events, at the commencement of the first session of the senate next after a general election, or at the commencement of any session where there is no lieutenant-governor, or president *pro tempore* to preside, the oldest member of the senate shall call the senate to order, and shall preside over the same until a president *pro tempore* shall have been chosen and taken his seat, or until the removal of the disability, or the return of the lieutenant-governor.

The oldest member of the senate and the oldest delegate, where that expression is used in the constitution, shall mean the one oldest in continuous service in his respective house, and if two or more have had the same continuous service, then the one of those who is oldest in years shall be meant.

In case of the death, conviction on impeachment, failure to qualify, resignation or other disability of the governor, the duties of governor shall devolve upon the lieutenant-governor who shall act as governor for the balance of the unexpired term, and until a successor is elected and qualified, or until the disability of the governor is removed; and if the lieutenant-governor for any cause shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of delegates who shall act as governor until a successor is elected and qualified, and in case the duties of governor do so devolve upon the speaker of the house when more than one year of the term of the governor remains unexpired, a special election shall be called to be held within four months to fill the vacancy for the unexpired term as shall be provided by law.

In all other cases, where there is no one to act as governor, one shall be chosen by a joint vote of the two houses of the legislature, who for the purpose of choosing some one to act as governor shall at the earliest possible date be summoned in extraordinary session by the secretary of state, and in case a governor is so chosen by joint vote of the two houses, his tenure of office and the election of his successor shall be governed by the same rules as are above provided in cases where the duties of governor devolve upon the speaker of the house of delegates.

The lieutenant-governor shall receive such salary as may be fixed by law.

SENATE JOINT RESOLUTION NO. 18.

(Adopted February 6, 1913.)

Providing for the printing of additional copies of journals and bills of the two houses of the legislature.

Resolved, That in order to supply the demand for journals and bills of the house and senate, created by the passage of the recent bill providing for the distribution of the same to the people throughout the state, that the public printer be instructed to increase the number of house and senate journals delivered for the use of the legislature to two thousand of each; and to increase the number of house and senate bills to a like number of two thousand whenever any such bills are ordered printed by either house, or any committee thereof; *provided, however*, that in giving out bills to the public printer the clerk shall not direct the additional number of copies printed in cases of bills concerning the charters of towns and cities, independent school districts and other bills of a purely local character.

SENATE JOINT RESOLUTION NO. 22.

(Adopted February 12, 1913.)

Raising a joint committee to investigate bribery charges against certain members of the senate and house of delegates and persons unknown who are alleged to have offered said bribes; be it

Resolved by the Senate, the House of Delegates concurring therein:

That a committee of five, composed of two members of the senate, to be appointed by the president of the senate, and three members of the house of delegates, to be appointed by the speaker of the house of delegates, be appointed, which committee is authorized and instructed to proceed, with all reasonable diligence, to make a thorough investigation of all matters and things concerning certain bribery charges against certain members of the senate and house of delegates, and other persons unknown at the present time, who are alleged to have offered bribes to the aforesaid members, and to investigate all matters and things concerning charges that certain members aforesaid have been offered and paid certain sums of money for their votes in the joint assembly for the purpose of electing a United States senator to the congress of the United States for the term beginning March four, one thousand nine hundred and thirteen, which said committee is authorized and empowered to employ proper assistance, to summon and compel the attendance of witnesses, to administer oaths, and, generally, to send for persons and papers. Said committee shall have all the authority and power conferred on committees by section seven of chapter twelve of the code. Said committee shall have full power and authority to act after the adjournment of the senate and house of delegates, to the end that all the charges may be fully investigated, and to report their finding to a future meeting of the legislature, if unable to complete said investigation before the expiration of the present session.

SENATE JOINT RESOLUTION NO. 23.

(Adopted February 17, 1913.)

Requesting the attorney general of the state of West Virginia to assist the committee raised by senate joint resolution No. 22, for the purpose of investigating bribery charges against certain members of the senate, and house of delegates and persons unknown, who it is alleged have offered bribes, as set out in said resolution; be it

Resolved by the Senate, the House of Delegates concurring therein:

That the attorney general of the state and his successor in office

is hereby requested to assist the committee authorized by senate joint resolution number twenty-two in its investigation of bribery charges against certain members of the senate and house of delegates, and to examine all witnesses which may be required to attend before said committee during the investigation authorized as above set out.

CONFERENCE COMMITTEE'S SUBSTITUTE FOR HOUSE
SUBSTITUTE FOR SENATE JOINT RESOLUTION NO. 5.

(Adopted February 21 1913.)

Creating a commission, known as the Virginia debt commission, to provide for arranging and settling with the commonwealth of Virginia the proper proportion of the public debt of the original commonwealth of Virginia, if any should be borne by West Virginia, to take into consideration all matters arising between the commonwealth of Virginia and the state of West Virginia in reference to said original public debt, and to report its proceedings to the governor of the state.

WHEREAS, The commonwealth of Virginia instituted a suit in the supreme court of the United States against the state of West Virginia, to have the state of West Virginia's proportion of the public debt of Virginia as it stood before one thousand eight hundred and sixty-one, ascertained and satisfied; and,

WHEREAS, At the October term, one thousand nine hundred and ten, the supreme court of the United States made a finding that the share of the principal debt of the original commonwealth of Virginia to be borne by the state of West Virginia, was seven million one hundred and eighty-two thousand six hundred and seven dollars and forty-six cents; and,

WHEREAS, Said court did not fully and finally decide the question involved, but suggested that such proceedings and negotiations should be had between the states upon all the questions involved in said litigation, as might lead to a settlement of the same; therefore, be it

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That a commission of eleven members, known as the Virginia debt

commission. is hereby created. The members of said commission shall be appointed by the governor, two of whom shall be chosen from each congressional district of the state, and one at large, not more than six of whom shall belong to any one political party, and all resigna- or vacancies in the said commission as they occur shall be filled by the appointment of the governor.

Said commission is authorized and directed to negotiate with the commonwealth of Virginia, or with any person or committee owning or holding any part of the said indebtedness for a settlement of West Virginia's proportion of the debt of the original commonwealth of Virginia proper, to be borne by the state of West Virginia.

The commission is hereby directed to ascertain and report upon and give the utmost publicity to all the facts in relation to the pending suit instituted against the state of West Virginia by the commonwealth of Virginia and to ascertain and report upon and give like publicity to all of the facts and conditions under which the West Virginia certificates are held or owned, together with the names and residences of the persons having the legal or equitable right to receive from West Virginia whatever may be ascertained to be payable thereon.

To ascertain and report as to any part of the Virginia debt claimed against the state of West Virginia, which is owned or held or claimed to be due, at law or in equity, by the commonwealth of Virginia in her own right; and having made the investigation required hereby, said commission is authorized and directed to negotiate with the commonwealth of Virginia for a settlement of West Virginia's proportion of the debt of the original commonwealth of Virginia proper, to be borne by the state of West Virginia.

A majority of said commission shall have authority to act. The commission shall choose its chairman and appoint its secretary and other necessary officers.

The expenses properly incurred by the commission and its individual members, including compensation of said members at the rate of ten dollars per day for the time actually employed, shall be paid by the state out of the moneys appropriated for said purpose.

The commission shall make a report to the governor as soon as practicable, and upon receipt of said report the governor shall convene the legislature for the consideration of the same.

The commission is hereby authorized to sit within or without the state and to send for papers and records and to examine witnesses under oath.

HOUSE CONCURRENT RESOLUTION NO. 2.

(Adopted January 28, 1913.)

Providing for the meeting of the two houses in joint assembly, to open and publish the returns of the election for state officers held on the fifth day of November, one thousand nine hundred and twelve:

Resolved, That the house of delegates respectfully propose, with the concurrence of the senate, that the two houses meet in joint assembly in the hall of the house of delegates, at twelve o'clock, *m.* the twenty-eighth day of January, one thousand nine hundred and thirteen, for the purpose of opening and publishing returns of the election of state officers, held on the fifth day of November, one thousand nine hundred and twelve, and continue to meet in joint session each succeeding legislative day, at twelve o'clock, *m.*, until the returns have been canvassed, in conformity with the requirements of section three of article seven of the constitution.

HOUSE CONCURRENT RESOLUTION NO. 5.

(Adopted February 3, 1913.)

Adopting joint rules for the two houses during the present session.

Resolved by the House of Delegates, the Senate concurring therein.

That the joint rules of the senate and house of delegates, adopted at the regular session of one thousand nine hundred and eleven, and printed in the manual of that year, be and the same are hereby adopted as the joint rules governing the two houses during the present session of the legislature.

HOUSE CONCURRENT RESOLUTION NO. 8.

(Adopted February 13, 1913.)

Memorial of the legislature of West Virginia to the congress of the United States asking that West Virginia be divided into three

federal districts for judicial purposes, and that the additional district be known as the central judicial district, be created :

WHEREAS, The population of the state of West Virginia has greatly increased since the division of the state into two judicial districts, and the establishment of the southern United States district court of said state; and

WHEREAS, The wealth and other interests of said state have increased more rapidly than the population; and

WHEREAS, Transportation lines and other public service corporations have also vastly increased within said period, so that it is necessary that additional facilities for transacting the business of the public in the district court of the United States within said state should be increased to the end that the people may have their controversies speedily settled with the least possible cost and delay; therefore, be it

Resolved, That the congress of the United States be, and the same is hereby respectfully petitioned and memorialized to create within said state an additional federal district court, and that it be located in and have jurisdiction over the territory extending from the eastern to the western line through the center of said state, to include such territory and population as proportionately to divide said state into three sections, to be known as the northern, central and southern districts; and that a judge and such other officials necessary properly to equip said court be appointed to discharge the duties thereof; and thus the legislature will ever pray.

HOUSE CONCURRENT RESOLUTION NO. 10.

(Adopted February 21, 1913.)

Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred and thirteen.

Resolved by the House of Delegates, the Senate concurring therein:

That the clerks of the two houses are hereby directed to have printed by the public printer two thousand advance copies of the acts of this session, properly head-noted and with a full table of contents, for distribution among the members of the legislature, judges of the

supreme court of appeals, and of the circuit, criminal and intermediate courts, sheriff's, prosecuting attorneys and clerks of the circuit, criminal, intermediate and county courts.

Said public printer shall print and deliver said advance copies to the clerks of the two houses within forty-five days after the adjournment of this session, Upon receipt of the same the clerks shall, without delay, forward by mail or express to each member of the senate and house of delegates at least ten of said advance copies, and one copy to each of the officials hereinbefore enumerated and ten copies to each of the state officials. The sum of two hundred dollars out of the contingent fund of the house and one hundred dollars out of the contingent fund of the senate, or so much thereof as is actually used for the purpose, is hereby directed to be paid by the auditor upon proper warrants drawn by the clerk of the senate and sergeant-at-arms of the house, respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution the time of the said clerks and one assistant clerk from each house, is extended for fifty days, the per diem to be paid out of the contingent fund of the senate and house, respectively, upon proper warrants being drawn therefor by the clerk of the senate and sergeant-at-arms of the house, and the auditor is hereby authorized and directed to pay the same.

OFFICIAL DIRECTORY

STATE GOVERNMENT

STATE CAPITOL, CHARLESTON, KANAWHA COUNTY.

OFFICE.	NAME.	RESIDENCE.	COUNTY.
Governor.....	HENRY D. HATFIELD.	Eckman.....	McDowell.
Secretary of State.....	STUART F. REED....	Clarksburg.....	Harrison.
State Superintendent of Free School.....	M. P. SHAWKEY....	Charleston.....	Kanawha.
Auditor.....	JOHN S. DARST....	Cottageville....	Jackson.
Attorney General.....	A. A. LILLY.....	Beckley.....	Raleigh.
Assistants.....	FRANK LIVELY....	Hinton.....	Summers.
	JOHN B. MORRISON..	Sutton.....	Braxton.
	J. E. BROWN.....	Bluefield.....	Mercer.
Treasurer.....	E. L. LONG.....	Welch.....	McDowell.
Commissioner of Agriculture.....	H. E. WILLIAMS..	Trout.....	Greenbrier.
State Tax Commissioner.....	FRED O. BLUE....	Phillippi.....	Barbour.
Librarian.....	J. C. GILMER....	Charleston.....	Kanawha.
Commissioner of Banking.....	S. V. MATHEWS..	Charleston.....	Kanawha.
Adjutant General.....	C. D. ELLIOTT....	Parkersburg....	Wood.
Commissioner of Labor.....	I. V. BARTON....	Wheeling.....	Ohio.
Chief Mine Inspector.....	JOHN LAING.....	Charleston.....	Kanawha.
Game and Fish Warden.....	J. A. VIKESNEY..	Belington.....	Barbour.
Parson Attorney.....	E. G. PIERSON....	Fayetteville....	Fayette.
Archivist and Historian.....			

STATE BOARD OF CONTROL.

JAMES S. LARIN, <i>President</i>	Kingwood.....	Preston County.
DR. E. B. STEPHENSON.....	Charleston.....	Kanawha County.
W. M. O. DAWSON.....	Charleston.....	Kanawha County.

UNITED STATES SENATORS.

NAME.	POSTOFFICE.	COUNTY.	TERM EXPIRES.
WILLIAM E. CHILTON.....	Charleston.....	Kanawha.....	March 4, 1917.
NATHAN GOFF.....	Clarksburg.....	Harrison.....	March 4, 1919.

REPRESENTATIVES IN CONGRESS.

DISTRICT.	NAME.	POSTOFFICE.	COUNTY.	TERM EXPIRES.
First.....	JOHN W. DAVIS.....	Clarksburg.....	Harrison....	March 4, 1915.
Second....	WILLIAM G. BROWN....	Kingwood.....	Preston....	March 4, 1915.
Third....	S. B. AVIS.....	Charleston.....	Kanawha....	March 4, 1915.
Fourth....	HUNTER H. MOSS.....	Parkersburg....	Wood.....	March 4, 1915.
Fifth....	JAMES A. HUGHES....	Huntington....	Cabell.....	March 4, 1915.
At Large.	HOWARD SUTHERLAND..	Elkins.....	Randolph....	March 4, 1915.

THE JUDICIARY

UNITED STATES COURTS

CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT, RICHMOND, VA.

COMMENCEMENT OF TERMS.

First Tuesday in February, first Tuesday in May and first Tuesday in November.

EDWARD D. WHITE, Chief Justice, Washington, D. C.
 WOODS, Circuit Judge of S. C.
 JETER C. PRITCHARD, Circuit Judge, Ashville, N. C.
 JOHN C. ROSE, District Judge, Baltimore, Md.
 HENRY GROVES CONNOR, District Judge, Wilson, N. C.
 JAMES EDMUND BOYD, District Judge, Greensboro, N. C.
 HARRY A. M. SMITH, District Judge, Charleston, S. C.
 EDMUND WADDILL, Jr., District Judge, Richmond, Va.
 H. CLAY McDOWELL, District Judge, Lynchburg, Va.
 ALSTON G. DAYTON, District Judge, Philippi, W. Va.
 BENJAMIN F. KELLAR, District Judge, Charleston, W. Va.
 HENRY T. MALONEY, Clerk, Richmond, Va.

DISTRICT COURTS OF WEST VIRGINIA

NORTHERN DISTRICT.

COMMENCEMENT OF TERMS.

Parkersburg—Second Tuesday of January and second Tuesday of June.
 Wheeling—First Tuesday of May and third Tuesday of October.
 Clarksburg—Second Tuesday of April and first Tuesday of October.
 Martinsburg—First Tuesday of April and third Tuesday of September.
 Philippi—Fourth Tuesday of May and second Tuesday of November.

ALSTON G. DAYTON.....District Judge.....Philippi.
 Charles B. Kefauver.....Clerk.....Parkersburg.
 Edward B. Neal.....Deputy Clerk.....Parkersburg.
 L. V. G. Morris.....Deputy Clerk.....Philippi.
 Geo. E. Boyd, Jr.Deputy Clerk.....Wheeling.
 A. C. Nadenbousch.....Deputy Clerk.....Martinsburg.
 H. Roy Waugh.....United States Attorney.....Buckhannon.
 John Marshall.....Assistant U. S. Attorney.....Parkersburg.
 Howard J. Wilcox.....Assistant U. S. Attorney.....Philippi.
 James E. Doyle.....United States Marshal.....Parkersburg.
 A. T. Barrett.....Chief Deputy.....Parkersburg.
 H. M. Rapp.....Office Deputy.....Parkersburg.
 E. D. Hupp.....Field Deputy.....Clarksburg.
 C. E. Williams.....Field Deputy.....Wheeling.
 W. D. Brown.....Field Deputy.....Martinsburg.
 L. V. G. Morris.....United States Commissioner.....Philippi.
 Edward B. Neal.....United States Commissioner.....Parkersburg.
 John W. Mason.....United States Commissioner.....Fairmont.
 Glenn Hunter.....United States Commissioner.....Morgantown.
 F. L. Blackmarr.....United States Commissioner.....Sistersville.
 Dorr Casto.....United States Commissioner.....Parkersburg.

John T. Cooper.....	United States Commissioner.....	Parkersburg.
J. H. Siler.....	United States Commissioner.....	Berkeley Springs.
H. A. Downs.....	United States Commissioner.....	Martinsburg.
T. A. Brown.....	Referee in Bankruptcy.....	Parkersburg.
W. Frank Stout.....	Referee in Bankruptcy.....	Clarksburg.
O. E. Wyckoff.....	Referee in Bankruptcy.....	Grafton.
B. L. Butcher.....	Referee in Bankruptcy.....	Fairmont.
M. H. King.....	Referee in Bankruptcy.....	Elkins.
J. Ben Brady.....	Referee in Bankruptcy.....	Kingwood.
W. H. Thomas.....	Referee in Bankruptcy.....	Martinsburg.
J. W. Cummins.....	Referee in Bankruptcy.....	Wheeling.
H. A. Nolte.....	Referee in Bankruptcy.....	Wheeling.

Counties composing the Northern District :—Barbour, Berkeley, Brooke, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Lewis, Marlton, Marshall, Mineral, Monongalia, Morgan, Ohio, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt and Wood.

SOUTHERN DISTRICT.

COMMENCEMENT OF TERMS.

Charleston—First Tuesday in June and third Tuesday in November.
 Huntington—First Tuesday in April and first Tuesday after the third Monday in September.
 Bluefield—First Tuesday in May and third Tuesday in October.
 Addison—First Tuesday in September.
 Lewisburg—Second Tuesday in July.

BENJAMIN F. KELLAR.....	District Judge.....	Charleston.
Edwin M. Keatley.....	Clerk.....	Charleston.
A. V. Fitzwater.....	Deputy Clerk.....	Charleston.
Ceres K. Adkins.....	Deputy Clerk.....	Huntington.
R. L. Gosling.....	Deputy Clerk.....	Bluefield.
Finley M. Arbuckle.....	Deputy Clerk.....	Lewisburg.
R. M. Doddrell.....	Deputy Clerk.....	Addison.
H. A. Ritz.....	United States Attorney.....	Bluefield.
H. Delbert Rummel.....	Assistant.....	Charleston.
Austin M. Sikes.....	Clerk.....	Huntington.
Frank H. Tyree.....	United States Marshal.....	Huntington.
William H. Lyons.....	Office Deputy.....	Huntington.
H. B. Tyree.....	Office Deputy.....	Huntington.
Walter C. Summers.....	Field Deputy.....	Gauley Bridge.
J. S. Porter.....	Field Deputy.....	Huntington.
A. D. Beavers.....	Field Deputy.....	Pineville.
Howard C. Smith.....	Field Deputy.....	Charleston.
E. M. Stewart.....	Field Deputy.....	Welch.
V. C. Champe.....	United States Commissioner.....	Montgomery.
John R. Dillard.....	United States Commissioner.....	Bluefield.
O. O. Sutton.....	United States Commissioner.....	Sutton.
Joseph Ruffner.....	United States Commissioner.....	Charleston.
John A. Thayer.....	United States Commissioner.....	Charleston.
E. C. Eagle.....	United States Commissioner.....	Hinton.
John W. McCreery.....	United States Commissioner.....	Beckley.
L. V. Ketter.....	United States Commissioner.....	Welch.
Paris D. Yeager.....	United States Commissioner.....	Marlinton.
F. H. Scott.....	United States Commissioner.....	Pineville.
B. H. Oxley.....	United States Commissioner.....	Griffitsville.
J. P. Douglas.....	United States Commissioner.....	Huntington.

John L. Whitten.....	Referee in Bankruptcy.....	Point Pleasant.
W. G. Mathews.....	Referee in Bankruptcy.....	Charleston.
R. M. Baker.....	Referee in Bankruptcy.....	Huntington.
John W. Arbuckle.....	Referee in Bankruptcy.....	Lewisburg.
H. B. Lee.....	Referee in Bankruptcy.....	Bluefield.
E. C. Rider.....	Referee in Bankruptcy.....	Sutton.
A. R. Heflin.....	Referee in Bankruptcy.....	Hinton.

Counties composing the Southern District:—Boone, Braxton, Cabell, Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Wayne, Webster and Wyoming.

STATE COURTS

SUPREME COURT OF APPEALS

JUDGES.	RESIDENCE.	COUNTY.	TERM EXPIRES.
GEO. POFFENBARGER, <i>Pres.</i>	Point Pleasant..	Mason.....	Dec. 31, 1924.
IRA E. ROBINSON.....	Grafton.....	Taylor.....	Dec. 31, 1916.
WM. N. MILLER.....	Parkersburg....	Wood.....	Dec. 31, 1916.
L. JUDSON WILLIAMS..	Lewisburg.....	Greenbrier.....	Dec. 31, 1921.
CHAS. W. LYNCH.....	Clarksburg.....	Harrison.....	Dec. 31, 1924.

CIRCUIT COURTS

FIRST JUDICIAL CIRCUIT—H. C. HERVEY, Wellsburg, and CHAS. C. NEWMAN, Moundsville, *Judges.*

Counties.

Commencement of Terms.

Hancock.....	Second Monday in March, third Monday in June and first Monday in November.
Brooke.....	Third Monday in February, first Monday in June and second Monday in October.
Marshall.....	Second Tuesday in February, last Tuesday in May and second Tuesday in October.
Ohio.....	Last Monday in March, first Monday in September and fourth Monday in November.

SECOND JUDICIAL CIRCUIT—P. D. MORRIS, *Judge*, New Martinsville.

Counties.

Commencement of Terms.

Wetzel.....	Second Tuesday in January, first Tuesday in May and third Tuesday in September.
Tyler.....	Fourth Tuesday in February, third Tuesday in June and first Tuesday in November.
Doddridge.....	Third Tuesday in March, second Tuesday in July and fourth Tuesday in September.

THIRD JUDICIAL CIRCUIT—HOMER B. WOODS, Judge, Harrisville.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Ritchie.....	Second Tuesday in February, second Tuesday in June and second Tuesday in October.
Pleasants.....	Second Tuesday in January, fourth Tuesday in April and second Tuesday in September.
Gilmer.....	First Tuesday in April, first Tuesday in August and fourth Tuesday in November.

FOURTH JUDICIAL CIRCUIT—WALTER E. McDUGGLE, Judge, Parkersburg.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Wood.....	First Monday in March, first Monday in July, first Monday in October and first Monday in December.
Wirt.....	Second Monday in January, second Monday in May and second Monday in September.

FIFTH JUDICIAL CIRCUIT—W. H. O'BREIN, Judge, Ripley.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Roane.....	Third Tuesday in January, third Tuesday in May and third Tuesday in September.
Jackson.....	First Tuesday in April, first Tuesday in August and first Tuesday in November.
Calhoun.....	Third Tuesday in April, third Tuesday in August and third Tuesday in November.
Mason.....	First Tuesday in February, first Tuesday in June and first Tuesday in October.

SIXTH JUDICIAL CIRCUIT—JOHN T. GRAHAM, Judge, Huntington

<i>Counties.</i>	<i>Commencement of Terms.</i>
Cabell.....	First Monday in January, first Monday in April, first Monday in July and first Monday in October.
Lincoln.....	First Monday in March, first Monday in June, first Monday in September and first Monday in December.
Putnam.....	Third Tuesday in March, third Tuesday in July and third Tuesday in November.

SEVENTH JUDICIAL CIRCUIT—JOHN B. WILKINSON, Judge, Logan.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Boone.....	Second Monday in March, second Monday in June, second Monday in September and second Monday in December.
Logan.....	Second Monday in January, second Monday in April, second Monday in July and second Monday in October.
Wayne.....	Second Monday in February, second Monday in May, second Monday in August and second Monday in November.

EIGHTH JUDICIAL CIRCUIT—ISAIAH C. HERNDON, Judge, Welch.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Mercer	Second Tuesday in May, second Tuesday in August and fourth Tuesday in November.
McDowell	Second Tuesday in February, second Tuesday in June and second Tuesday in September.
Monroe	Second Tuesday in April, second Tuesday in July and second Tuesday in November.

NINTH JUDICIAL CIRCUIT—JAMES H. MILLER, Judge, Hinton.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Raleigh	Third Monday in February, first Monday in May, fourth Monday in August and first Monday in December.
Wyoming	First Monday in March, fourth Monday in May, third Monday in September and third Monday in November.
Summers	First Monday in January, second Monday in March, second Monday in June and first Monday in October.

TENTH JUDICIAL CIRCUIT—SAMUEL D. LITTLEPAGE, Judge, Charleston.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Clay	First Monday in January, first Monday in April, third Monday in June and second Monday in October.
Kanawha	Second Monday in February, second Monday in May, second Monday in September and fourth Monday in November.

ELEVENTH JUDICIAL CIRCUIT—WM. L. LEE, Judge, Fayetteville.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Fayette	Second Tuesday in February, second Tuesday in May and third Tuesday in September.

TWELFTH JUDICIAL CIRCUIT—WM. S. O'BRIEN, Judge, Buckhannon.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Webster	Third Tuesday in January, fourth Tuesday in May and third Tuesday in September.
Upshur	Second Monday in March, first Monday in July and second Monday in November.

THIRTEENTH JUDICIAL CIRCUIT—HAYMOND MAXWELL, Judge, Clarksburg.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Lewis	First Monday in March, first Monday in July and first Monday in November.
Harrison	First Monday in January, first Monday in May and first Monday in September.

FOURTEENTH JUDICIAL CIRCUIT—WM. S. HAYMOND, *Judge*, Fairmont.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Marion.....	First Thursday after the first Monday in February, the first day of May, and the first Thursday after the first Monday in October.

FIFTEENTH JUDICIAL CIRCUIT—NEIL J. FOATNEY, *Judge*, Kingwood.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Taylor.....	Second Tuesday in January, fourth Tuesday in April and second Tuesday in September.
Preston.....	Second Tuesday in March, second Tuesday in June and third Tuesday in November.

SIXTEENTH JUDICIAL CIRCUIT—F. M. REYNOLDS, *Judge*, Keyser.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Grant.....	First Tuesday in April, second Tuesday in July and third Tuesday in November.
Mineral.....	Third Tuesday in January, third Tuesday in April, fourth Tuesday in July and third Tuesday in October.
Tucker.....	Second Tuesday in March, first Tuesday in June, first Tuesday in September and first Tuesday in December.

SEVENTEENTH JUDICIAL CIRCUIT—R. W. DAILY, *Judge*, Romney.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Hampshire.....	First Tuesday in January, first Tuesday in March, first Tuesday in July and third Tuesday in September.
Hardy.....	Third Tuesday in February, third Tuesday in June and third Tuesday in October.
Pendleton.....	Third Monday in March, fourth Monday in July and first Monday in December.

EIGHTEENTH JUDICIAL CIRCUIT—J. M. WOODS, *Judge*, Martinsburg.

<i>Counties.</i>	<i>Commencement of Terms.</i>
Morgan.....	First Tuesday in January, first Tuesday in April and first Tuesday in September.
Berkeley.....	Second Tuesday in January, third Tuesday in April and second Tuesday in September.
Jefferson.....	Second Tuesday in February, third Tuesday in May and third Tuesday in October.

NINETEENTH JUDICIAL CIRCUIT—WARREN B. KITTLE, *Judge*, Philippi.

- Counties.* *Commencement of Terms.*
 Barbour.....Second Tuesday in January, second Tuesday in April and second Tuesday in September.
 Randolph.....Second Tuesday in February, second Tuesday in May and second Tuesday in October.

TWENTIETH JUDICIAL CIRCUIT—CHAS. S. DICE, *Judge*, Lewisburg.

- Counties.* *Commencement of Terms.*
 Greenbrier..... Third Tuesday in April, fourth Tuesday in June and third Tuesday in November.
 Pocahontas.....First Tuesday in April, fourth Tuesday in July and first Tuesday in December.

TWENTY-FIRST JUDICIAL CIRCUIT—JAKE FISHER, *Judge*, Sutton.

- Counties.* *Commencement of Terms.*
 Braxton.....Third Monday in March, second Monday in July and third Monday in November.
 Nicholas..... Fourth Tuesday in January, second Tuesday in June and first Tuesday in October.

TWENTY-SECOND JUDICIAL CIRCUIT—JAMES DAMERON, *Judge*, Williamson.

- Counties.* *Commencement of Terms.*
 Mingo..... First Monday in February, first Monday in May, first Monday in August and first Monday in November.
 Wyoming..... First Monday in April, first Monday in July and first Monday in October.

TWENTY-THIRD JUDICIAL CIRCUIT—GEO. C. STURGISS, *Judge*, Morgantown.

- Counties.* *Commencement of Terms.*
 Monongalia.....First Monday in January, first Monday in April, first Monday in July and first Monday in October.

JUDGES OF INTERMEDIATE AND CRIMINAL COURTS

COUNTIES.	NAMES.	ADDRESS.
Cabell	Thomas W. Taylor.....	Huntington.
Fayette	J. T. Simms.....	Fayetteville.
Harrison	Jas. W. Robinson.....	Clarksburg.
Kanawha	Henry K. Black.....	Charleston.
Marion	G. A. Vincent.....	Fairmont.
Mercer	J. F. Maynard.....	Bluefield.
McDowell	James French Strother.....	Welch.
Ohio	A. H. Robinson.....	Wheeling.
Raleigh	T. J. McGinnis.....	Beckley.
Wood	F. H. McGregor.....	Parkersburg.

COUNTY OFFICERS

PROSECUTING ATTORNEYS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	Albert C. Jenkins	Philippi.
Berkeley	W. W. Downey	Martinsburg.
Boone	John B. Hager	Madison.
Braxton	James E. Cutlip	Sutton.
Brooke	William M. Werkman	Wellsburg.
Cabell	Henry Simms	Huntington.
Calhoun	Albert Smith	Grantsville.
Clay	T. O. Horan	Clay.
Doddridge	A. F. McCue	West Union.
Fayette	C. R. Summerfield	Fayetteville.
Glimer	L. H. Barnett	Glenville.
Grant	E. M. Johnson	Petersburg.
Greenbrier	Mark L. Jarrett	Lewisburg.
Hampshire	Robert White	Romney.
Hancock	Frank L. Bradley	New Cumberland.
Hardy	J. Ed. Chipley	Moorefield.
Harrison	A. Judson Findley	Clarksburg.
Jackson	N. C. Prickett	Ravenswood.
Jefferson	George D. Moore	Charles Town.
Kanawha	T. C. Townsend	Charleston.
Lewis	Henry F. Rymer	Weston.
Lincoln	E. E. Young	Hamlin.
Logan	John Chaffin	Logan.
Marion	Tusca Morris	Fairmont.
Marshall	J. D. Parlott	Moundsville.
Mason	F. G. Musgrave	Point Pleasant.
Mercer	A. M. Sutton	Princeton.
Mineral	Emory L. Tyler	Keyser.
Mingo	J. L. Stafford	Williamson.
Monongalia	Charles A. Goodwin	Morgantown.
Monroe	W. H. Copeland	Union.
Morgan	H. W. Bayer	Berkeley Springs.
McDowell	F. C. Cook	Weich.
Nicholas	J. M. Wolverton	Richwood.
Ohio	R. M. Addleman	Wheeling.
Pendleton	Wm. McCoy	Franklin.
Pleasants	M. L. Barron	Maxwell.
Pocahontas	S. H. Sharp	Marlinton.
Preston	A. G. Hughes	Kingwood.
Putnam	C. C. Knapp	Winfield.
Raleigh	J. L. Hutchinson	Beckley.
Randolph	H. G. Kump	Elkins.
Ritchie	Thos. J. Davis	Harrisville.
Roane	H. C. Ferguson	Spencer.
Summers	T. N. Read	Hinton.
Taylor	Gene W. Ford	Grafton.
Tucker	Wayne K. Pritt	Parsons.
Tyler	O. B. Conaway	Middlebourne.
Upshur	Jerome Dalley	Buckhannon.
Wayne	D. B. Hardwick	Wayne.
Webster	W. L. Wooddell	Webster Springs.
Wetzel	Glen Snodgrass	New Martinsville.
Wirt	S. W. Cain	Elizabeth.

Wood	H. O. Hlteshew.....	Parkersburg.
Wyoming	J. Albert Toler.....	Plneville.

CLERKS OF CIRCUIT COURTS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	C. W. Brandon	Phillippi.
Berkeley	L. DeW. Gerhardt.....	Martinsburg.
Boone	F. T. Miller.....	Madison.
Braxton	C. H. Bland.....	Sutton.
Brooke	Frank E. Foster.....	Wellsburg.
Cabell	R. W. McWilliams.....	Huntington.
Calhoun	C. C. Starcher.....	Grantsville.
Clay	H. M. Young.....	Clay.
Doddridge	J. O. Wilcox.....	West Union.
Fayette	Floyd Keller.....	Fayetteville.
Gilmer	I. N. Hardman.....	Glenville.
Grant	D. P. Hendrickson.....	Petersburg.
Greenbrier	H. C. Skaggs.....	Lewisburg.
Hampshire	V. M. Pollng.....	Romney.
Hancock	Thos. M. Cochran.....	New Cumberland.
Hardy	C. B. Welton.....	Moorefield.
Harrison	I. Wade Coffman.....	Clarksburg.
Jackson	M. C. Archer.....	Ripley.
Jefferson	John M. Daniel.....	Charles Town.
Kanawha	Ira Mottesheard.....	Charleston.
Lewis	John H. Conrad.....	Weston.
Lincoln	W. H. F. Curry.....	Hamlin.
Logan	Scott Justice.....	Logan.
Marion	Wm. S. Black.....	Fairmont.
Marshall	Victor E. Myers.....	Moundsville.
Mason	Chas. Burton.....	Point Pleasant.
Mercer	W. B. Honaker.....	Princeton.
Mineral	J. V. Bell.....	Keyser.
Mingo	Guy White.....	Williamson.
Monongalia	John Shriver.....	Morgantown.
Monroe	R. Porter Boyd.....	Union.
Morgan	W. H. Webster.....	Berkeley Springs.
McDowell	W. Burbridge Payne.....	Welch.
Nicholas	Jennings J. Summers.....	Summersville.
Ohio	John L. Kinghorn.....	Wheeling.
Pendleton	I. E. Batton.....	Franklin.
Pleasants	W. R. Carson.....	St. Marys.
Pocahontas	Geo. W. Sharp.....	Marlington.
Preston	J. W. Watson.....	Kingwood.
Putnam	W. E. Hodges.....	Winfield.
Raleigh	Jackson Smith.....	Beckley.
Randolph	G. N. Wilson.....	Elkins.
Ritchie	H. E. McGinnis.....	Harrisville.
Roane	L. O. Curtis.....	Spencer.
Summers	W. H. Boude.....	Hinton.
Taylor	M. D. Allender.....	Grafton.
Tucker	Lawrence Lipscomb.....	Parsons.
Tyler	J. G. Mayfield.....	Middlebourne.
Upshur	A. J. Zickefoose.....	Buckhannon.
Wayne	G. W. Frazier.....	Wayne.
Webster	John R. Dyer.....	Webster Springs.
Wetzel	W. J. Postlewait.....	New Martinsville.
Wirt	Walter Hoffman.....	Elizabeth.
Wood	Walter E. Stout.....	Parkersburg.
Wyoming	E. M. Senter.....	Plneville.

CLERKS OF COUNTY COURTS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	S. F. Hoffman	Phillippi.
Berkeley	E. A. Hobbs	Martinsburg.
Boone	Wm. Osborne	Madison.
Braxton	E. W. Hefner	Sutton.
Brooke	K. C. Brashear	Wellsburg.
Cabell	F. F. McCullough	Huntington.
Calhoun	S. W. McClung	Grantsville.
Clay	James Reed	Clay.
Doddridge	U. G. Summers	West Union.
Fayette	S. T. Carter	Fayetteville.
Gillmer	N. E. Rymer	Glenville.
Grant	D. P. Henrickson	Petersburg.
Greenbrier	Jno. S. Crawford	Lewisburg.
Hampshire	C. W. Haines	Romney.
Hancock	Armour S. Cooper	New Cumberland.
Hardy	C. B. Welton	Moorefield.
Harrison	W. Guy Tetrick	Clarksburg.
Jackson	C. C. Staats	Ripley.
Jefferson	Charles A. Johnson	Charles Town.
Kanawha	L. C. Massey	Charleston.
Lewis	H. W. Lightburn	Weston.
Lincoln	W. C. Holsteln	Hanlin.
Logan	W. I. Campbell	Logan.
Marion	John F. Phillips	Fairmont.
Marshall	John E. Chase	Moundsville.
Mason	R. E. Mitchell	Point Pleasant.
Mercer	E. L. Bowman	Princeton.
Mineral	J. V. Bell	Keyser.
Mingo	James Damron	Williamson.
Monongalia	John M. Gregg	Morgantown.
Monroe	E. S. McNeer	Union.
Morgan	M. S. Harmison	Berkeley Springs.
McDowell	Robert B. Bernhelm	Welch.
Nicholas	P. N. Wiseman	Summersville.
Ohio	John H. Wells	Wheeling.
Pendleton	I. E. Ratton	Franklin.
Pleasants	R. L. Griffin	St. Marys.
Pocahontas	C. J. McCarty	Marlinton.
Preston	E. C. Everly	Kingwood.
Putnam	J. M. Henson	Winfield.
Raleigh	M. J. Meadows	Beckley.
Randolph	F. A. Rowan	Elkins.
Ritchie	W. R. Meservle	Harrisville.
Roane	W. A. Carpenter	Spencer.
Summers	W. P. Bowling	Hinton.
Taylor	Hayward Fleming	Grafton.
Tucker	S. O. Billings	Parsons.
Tyler	J. W. Duty	Middlebourne.
Upshur	Ernest Phillips	Buckhannon.
Wayne	John G. Lambert	Wayne.
Webster	S. P. Allen	Webster Springs.
Wetzel	Sylvester Myers	New Martinsville.
Wirt	I. P. Thorn	Elizabeth.
Wood	Wm. Dudley	Parkersburg.
Wyoming	B. H. E. Stewart	Plinville.

SHERIFFS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	Arthur F. Bennett.	Phillippi.
Berkeley	E. H. Tabler.	Martinsburg.
Boone	Walter W. Smoot.	Danville.
Braxton	Russell N. Rolyson.	Sutton.
Brooke	George H. Patterson.	Wellsburg.
Cabell	P. C. Buffington.	Huntington.
Calhoun	Robert J. Knotts.	Frozen.
Clay	C. U. Summers.	Ivydale.
Doddridge	Ell Nutter.	West Union.
Fayette	T. J. Davis.	Montgomery.
Gilmer	J. R. Garrett.	Sand Fork.
Grant	Dr. W. T. Highberger.	Maysville.
Greenbrier	Wm. A. Boone.	Organ Cave.
Hampshire	J. N. Sirbaugh.	Capon Bridge.
Hancock	J. S. D. Mercer.	New Cumberland.
Hardy	O. S. Elsher.	Moorefield.
Harrison	Ross F. Stout.	Clarksburg.
Jackson	R. P. Shinn.	Ripley.
Jefferson	J. W. Gardner.	Shepherdstown.
Kanawha	Bonner H. Hill.	Cheylen.
Lewis	John A. Chittum.	Weston.
Lincoln	Henry Miller.	Griffithsville.
Logan	Don Chafin.	Logan.
Marion	C. D. Conaway.	Fairmont.
Marshall	C. E. Hutchinson.	Moundsville.
Mason	F. E. Bletner.	Mason.
Mercer	W. W. Hamilton.	Bramwell.
Mineral	C. E. Nethkin.	Keyser.
Mingo	G. W. Hatfield.	Williamson.
Monongalia	John B. Wallace.	Morgantown.
Monroe	C. T. Sibold.	Dorr.
Morgan	H. M. Ruppenthal.	Berkeley Springs.
McDowell	J. Frank Johnson.	Welch.
Nicholas	Jettes Mollohan.	Summersville.
Ohio	A. T. Sweeney.	Wheeling.
Pendleton	L. D. Trumbo.	Brandywine.
Pleasants	S. V. Riggs.	St. Marys.
Pocahontas	L. S. Cochran.	Marlinton.
Preston	H. Foster Hartman.	Terra Alta.
Putnam	E. W. Wick.	Winfield.
Raleigh	Geo. W. Thompson.	Odd.
Randolph	A. J. Crickard.	Valley Bend.
Ritchie	Creed C. McKinley.	Harrisville.
Roane	J. P. Price.	Spencer.
Summers	D. M. Meador.	Hinton.
Taylor	Lee Bennett.	Grafton.
Tucker	Albert C. Minear.	Parsons.
Tyler	Lloyd H. Morris.	Middlebourne.
Upshur	H. A. Zickefoose.	Buckhannon.
Wayne	J. S. Billups.	Wayne.
Webster	O. C. Ferrell.	Cleveland.
Wetzel	Clarence M. Stone.	New Martinsville.
Wirt	F. E. Badger.	Elizabeth.
Wood	Wm. Devore.	Parkersburg.
Wyoming	Charley Short.	Balleville.

COUNTY SUPERINTENDENTS OF FREE SCHOOLS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	Clerphas Marsch	Phillippi
Berkeley	W. W. Nelson	Turtle Creek
Boone	E. N. Zeller	Inwood
Braxton	W. B. Golden	Flatwoods
Brooke	S. C. Underwood	Wellsburg
Cabell	J. C. Pettit	Oona
Calhoun	Wheeler Chenoweth	Euclid
Clay	J. F. Wilson	Clay
Doddridge	L. L. Sadler	West Union
Fayette	J. T. Peters	Dothan
Gilmer	J. E. Hays	Troy
Grant	H. F. Groves	Maysville
Greenbrier	Chas. Tabscott	Richlands
Hampshire	Ira V. Cowgill	Romney
Hancock	H. O. Miller	Pughtown
Hardy	L. S. Halterman	Lost River
Harrison	A. P. Morrison	Clarksburg
Jackson	F. H. Rardin	Sherman
Jefferson	James Grantham	Kearneysville
Kanawha	N. W. Cavender	Charleston
Lewis	M. L. B. Linger	Weston
Lincoln	Henry F. White	Easy
Logan	L. E. Browning	Logan
Marion	W. M. Kennedy	Fairmont
Marshall	H. W. McDowell	Glen Easton
Mason	C. D. Ball	Letart
Mercer	James F. Holroyd	Athens
Mineral	Richard W. Thrush	Keyser
Mingo	Ill. Maynard	Myrtle
Monongalia	H. E. Brookover	Morgantown
Monroe	Wheeler R. Fullen	Salt Sulphur Springs
Morgan	A. D. H. Michael	Berkeley Springs
McDowell	W. C. Cook	Welch
Nicholas	Harrison Groves	Summersville
Ohio	J. H. Lazar	Fulton Station, Wheeling.
Pendleton	Flick Warner	Franklin
Pleasants	G. C. McTaggart	Eureka
Pocahontas	B. B. Williams	Cass
Preston	Willis Fortney	Independence
Putnam	J. C. Fish	Red House
Raleigh	U. S. Dickens	Beckley
Randolph	W. J. Long	Valley Bend
Ritchie	R. B. Cokeley	Harrisville
Roane	A. L. Thrash	Reedy
Summers	W. T. Ball	Hinton
Taylor	Dellet Newlon	Grafton
Tucker	C. R. Parsons	Porterwood
Tyler	A. L. Gregg	Middlebourne
Upshur	J. H. Ashworth	Buckhannon
Wayne	O. J. Rife	Wayne
Webster	Geo. R. Morton	Lanes Rottom
Wetzel	Chas. Kissig	New Martinsville
Wirt	Ross Wilson	Hartley
Wood	Edgar B. Sims	Williamstown
Wyoming	Chester H. Cook	Pineville

COUNTY SURVEYORS.

COUNTIES.	NAMES.	ADDRESSES.
Barbour	Ellsworth Wilson	Bellington.
Berkeley	Henry H. Hess	Martinsburg.
Boone	B. F. Ball	Ramage.
Braxton	G. H. Cunningham	Bulltown.
Brooke	M. E. Boyd	Wellsburg.
Cabell	J. M. Oliver	Huntington.
Cainoun	D. W. Shock	Doddrill.
Clay	P. N. King	Bomont.
Doddridge	C. C. Freeman	Big Isaac.
Fayette	Earl McVey	Victor.
Gilmer	J. Earnest Bell	Glenville.
Grant	S. A. Stonestreet	Streby.
Greenbrier	James W. Rader	Lewisburg.
Hampshire	E. J. Loy	Ford Hill.
Hancock	E. C. Grafton	New Cumberland.
Hardy	J. Wm. Kuykendall	Moorefield.
Harrison	C. A. Osborn	Clarksburg.
Jackson	Herbert Skeen	Kentuck.
Jefferson	Jas. K. Hendricks	Charles Town.
Kanawha	A. E. Price	Blue Creek.
Lewis	P. F. Flesher	Freemansburg.
Lincoln	Delmer Hill	Caldona.
Logan	Chas. G. Curry	Coalmer.
Marion	Frank J. Willfong	Fairmont.
Marshall	R. C. Yoho	Moundsville.
Mason	Geo. E. Childs	Point Pleasant.
Mercer	Forest E. Walker	Matoaka.
Mineral	J. L. Hott	Keyser.
Mingo	J. L. Ferrell	Williamson.
Monongalia	A. L. Headley	Fairview.
Monroe	C. P. Lewis	Sweet Springs.
Morgan	J. N. Fries	Berkeley Springs.
McDowell	Harry J. Brook	Welch.
Nicholas	R. O. Odell	Pearl.
Ohio	O. S. Koller	Wheeling.
Pendleton	Z. M. Nelson	Nome.
Pleasants	John Triplett	Willow.
Pocahontas	E. H. Williams	Marlinton.
Preston	S. R. Guesman	Reedsville.
Putnam	J. T. Lanham	Lanham.
Raleigh	W. J. Scarborough	
Randolph	A. Ward Schoonover	Montrose.
Ritchie	John A. Pew	Cairo.
Roane	P. T. Radabaugh	Spencer.
Summers	H. L. Batten	Pence Spring.
Taylor	R. A. Morrow	Bridgeport.
Tucker	Joe K. Grubb	Parsons.
Tyler	Charles P. Clark	Sistersville.
Upshur	Claude Burr	Buckhannon.
Wayne	Basil S. Burgess	Wayne.
Webster	P. B. Cogar	Webster Springs.
Wetzel	J. M. Cochran	Reader.
Wirt	H. F. Pell	Creston.
Wood	H. J. Rosa	Parkersburg.
Wyoming	L. R. Hash	Rockview.

COUNTY ASSESSORS.

COUNTIES.	NAMES.	ADDRESS.
Barbour	E. E. Musick	Varney.
Berkeley	John W. Dodd	Martinsburg.
Boone	Clarence C. Hopkins	Danville.
Braxton	Clay G. Perkins	Gassaway.
Brooke	Ed. M. Smith	Wellsburg.
Cabell	Homer Melrose	Huntington.
Calhoun	William J. Sturm	Hur.
Clay	Alex Summers	Valley Fork.
Doddridge	C. H. Pigott	Central St.
Fayette	C. H. Settle	Fayetteville.
Gilmer	Sam E. West	Auburn.
Grant	Geo. E. Ours	Dorcas.
Greenbrier	James W. McClung	Lewisburg.
Hampshire	E. H. Blue	Romney.
Hancock	Robert C. Evans	New Cumberland.
Hardy	J. W. F. Combs	Needmore.
Harrison	Howard Robinson	Rosebud.
Jackson	J. M. Staats	Gay.
Jefferson	Floyd L. Watson	Kearneysville.
Kanawha	Henry A. Walker	Charleston.
Lewis	W. O. Lunsford	Weston.
Lincoln	June C. Messinger	Sheridan.
Logan	George Justice	Logan.
Marion	Jas. W. Davis	Worthington.
Marshall	W. L. Nolte	Benwood.
Mason	W. W. Rowsey	Ruby.
Mercer	J. J. Via	Via.
Mineral	F. C. Patton	Elk Garden.
Mingo	Coney E. Corder	Phillippi.
Monongalia	Norman Garrison	Core.
Monroe	H. T. Neel	Gap Mills.
Morgan	Perkins Courtney	Berkeley Springs.
McDowell	Charles E. Rusmisell	McDowell.
Nicholas	W. S. Henderson	Delphi.
Ohio	William Hankey	Wheeling.
Pendleton	Elmer Lambert	Riverton.
Pleasants	W. H. Myers	Finch.
Pocahontas	William Gibson	Marlinton.
Preston	Ezra B. Hanger	Terra Alta.
Putnam	R. A. Raynes	Buffalo.
Raleigh	John Anderson	Beckley.
Randolph	Jasper N. Phares	Gilman.
Ritchie	W. M. Nutter	Iris.
Roane	B. S. Ray	Spencer.
Summers	Carry N. Vass	Marie.
Taylor	Melvin Newlon	Grafton.
Tucker	S. C. Simpson	Parsons.
Tyler	John H. Tipples	Sistersville.
Upshur	N. C. Cutright	Buckhannon.
Wayne	P. Frazier	Wayne.
Webster	Walter Cool	Diana.
Wetzel	D. H. McMillen	New Martinsville.
Wirt	Carl E. McCoy	Paletstine.
Wood	J. W. Flinn	Parkersburg.
Wyoming	W. B. Belcher	Pineville.

ERRATA.

On page IX, "members of house of delegates," the letter "D" after "Sherman Robinson," should read "R."

On page 138, head-note, "80-a-III." should read "81."

On page 496, line 11, "Sec. 80" should read "Sec. 81."

On page 498, line 12, the letter in parenthesis, "(g)" should read "(b)."

INDEX

ACTS AMENDING CODE :		Page
chapter 120 of the code, relating to prosecuting attorneys.....		157
chapter 150 of the code, relating to boards of health.....		159
chapter 33 of the code, relating to taxes on collateral inheritances		165
chapter 63 of the code, relating to reporting births and deaths..		172
chapter 7 of the code, relating to appointment of deputy sheriffs..		173
chapter 56 of the code, relating to board of public works.....		174
chapter 39 of the code, relating to allowances to county officers..		176
chapter 30 of the code, relating to time for collection of taxes extending time		180
chapter 137 of the code, relating to the fees of officers.....		187
chapter 43-a of the code, relating to roads, creating a state road system		192
chapter 145 of the code, relating to sentencing to labor convicts in the county jail		201
chapter 135 of the code, relating to submission of causes to the supreme court		217
chapter 32 of the code, relating to the rate of taxation of real and personal for school purposes		251
chapter 45 of the code, relating to the duration of teachers' certificates		262
ACTS OF LEGISLATURE AMENDED :		
1891, chapter 10, relating to cigarettes and tobacco.....		122
1907, chapter 77, relating to discriminating in insurance		127
1907,, chapter 79, relating to banks and banking, amending and adding additional sections		139
1908, chapter 19, relating to registration of voters		168
1887, relating to Odd Fellows' hall association of Wheeling....		182
1905, chapter 51, relating to maximum rate of taxes, limited ...		188
1909, chapter 86, relating to the rate and manner of laying levies for taxation		189
1911, chapter 9, relating to terms and time of court		216
1908, chapter 16, relating to terms and time of court		220
1903, chapter 22, relating to time of circuit court.....		221
1887, chapter 39, relating to the independent school district of Point Pleasant		226
1908, chapter 27, relating to education, amending and adding addi- tional sections, to pay school orders and keep accounts ...		231
1893, chapter 20, relating to the independent school district of Bellington, Barbour county		236
1909, chapter 16, relating to the school district of Huntington ...		252
1908, chapter 27, relating to the West Virginia reform school, changed to; industrial school for boys		263
1908, chapter 27, (extra session) relating to the West Virginia university		269
1909, chapter 3, relating to the city of Huntington	272, 325,	486
1907, chapter 1, relating to Charles Town charter		368
1866, chapter 86, relating to Piedmont charter		370

ACTS OF LEGISLATURE AMENDED— <i>Continued.</i>	Page
1899, chapter 54, relating to Grafton charter	400
1909, chapter 6, relating to Martinsburg charter	418
1899, chapter 11, relating to Fairmont charter	425
1907, chapter 3, relating to charter of city of Logan	483
1899, relating to Sistersville charter	485
1907, relating to charter of city of Chester	503
1909, relating to charter of Princeton	506
1911, chapter S3, relating to Parkersburg charter	530
1909, chapter 10, relating to charter of Weston	586
1907, relating to Wheeling charter	607

APPROPRIATIONS:

To Pay Salary of Officers of the Government.

for salary of governor	2
for salary of auditor	2
for salary of treasurer	2
for salary of attorney general	2
for salary of superintendent of free schools	2
for salary of secretary of state	2
for salary of adjutant general	2
for salary of state librarian	2
for salary of tax commissioner	2
for salary of commissioner of agriculture	2
for salary of state historian and archivist	2
for salaries of judges of supreme court	3
for salaries of judges of circuit courts	3
for salary of keeper of rolls	3
for salary of janitor	3
for salary of commissioner of banking	3
for salary of chief of department of mines	3
for salary of commissioner of labor	3
for salary of forestry, game and fish warden	3
for salaries of members of board of control	3
for salaries of members of board of regents	3
for salaries of members of public service commission	3

To Pay General Charges.

for criminal charges	5
for transportation of prisoners	5
for lunatics in jail	6
for Storer college	6
for king's daughters and city hospital	6
for West Virginia agricultural experiment station	6, 7
for traveling expenses of commissioner of banking	7
for current expenses of commissioner of banking	7
for salaries of assistant commissioners of banking	7
for salary of stenographer banking department	7
for salaries of twelve mine inspectors	7
for traveling expenses of chief and mine inspectors	7
for contingent and current expenses mine department	7
for stenographer and clerk in mine department	7
for examination of oils	7
for horticulture provided in serial section 355 code	7
for expenses of state board of health	7
for salaries of commissioners of pharmacy	7
for salary and traveling expenses of secretary	8
for holding examination and sundry expenses	8
for inspecting stores of state	8
for expenses of board of examiners in optometry	8

APPROPRIATIONS—Continued.

	Page
for salary of clerks and expenses of bureau of labor	8
for assistant commissioner of labor	8
for expenses of free employment bureau	8
for purchase and binding of books for state library at capitol	8
for purchase and binding of books for same at Charles Town	8
for salary of librarian at Charles Town	8
for mileage and traveling expenses of game warden	8
for contingent and current expenses of game warden	9
for salary of two chief deputy wardens	9
for mileage and traveling expenses of two deputies	9
for contingent expense	9
for protection of forests and propagation of fish	9
for contingent expenses of Berkeley Springs board	9
for expenses of West Virginia children's home	9
for repairs and improvements to home	9
for field work and expenses of humane society	9
for co-operation with U. S. in topographic mapping	10
for publication and preparation of maps	10
for soil studies and maps	10
for steam gauging	10
for field and other expenses	10
for salaries and geological staff	10
for the militia	10
for the bands of two regiments	10
for pay of expenses in maintaining law and order	11
for salaries of clerks and expenses in archives and history	11
for printing, binding, stationery and rent	11
for capitol building and grounds	12
for governor's mansion and grounds	12
for contingent fund of governor	12, 13
for salary of private secretary of governor	13
for stenographers and clerks in governor's office	13
for salary of pardon attorney	13
for salary of stenographer and contingent expenses. (pardon attorney)	13
for pay of special judges of circuit courts	13
for pay of mileage of supreme judges	13
for pay of mileage of circuit judges	13
for pay of clerk of supreme court	13
for contingent and current expenses of supreme court	13
for law clerks or stenographers of judges supreme court	14
for printing and binding court reports	14
for salaries of clerks and messengers of supreme court	14
for salary of stenographer and typewriter clerk of supreme court ..	14
for expenses state tax commissioner's office	14
for expenses of uniform system of accounting	14
for expenses of auditing state departments	14
for expenses of office of commissioner of prohibition	14
for expenses of colored orphans' home	14
for repairs and improvements	14
for buildings and land	14
for Florence Crittenden home at Wheeling	15
for salary of chief engineer at capitol building	15
for salary of night engineer	15
for salary of night watchman	15
for salary of one day fireman	15
for salary of one night fireman	15
for salary of janitor and messengers to board of control	15
for salary of nine janitors	15

APPROPRIATIONS—Continued.

	Page
for salary of two charwomen	15
for salary of elevator man, capitol building	15
for salary of elevator man, annex	15
for the Rumseyan society, inc.	15
for contingent expenses house of delegates	15
for contingent expenses of senate	15, 16
for salaries of three assistant attorneys general	16
for salary of three stenographers for attorney general	16
for salary of printing clerk for attorney general	16
for clerk hire, books and expenses office attorney general	16
for salary of chief clerk to secretary of state	16
for salaries of other clerks, secretary of state office	16
for salary of stenographer in secretary of state office	16
for salary of chief clerk in treasurer's office	16
for salary assistant clerk and stenographer in Treasurer's office..	16
for salary of chief clerk in auditor's office	16
for salary of stenographer in auditor's office	16
for salary of other clerks in auditor's office	16
for paying expenses of publishing delinquent corporations	16
for expenses in auditor's office made necessary by work as to insurance and investment companies	16, 17
for salary of chief clerk of commissioner of agriculture	17
for salary of stenographer, agriculture department	17
for traveling expenses	17
for diseased animals	17
for carrying out provisions as to agriculture societies	17
for statistics, advertising the agricultural interests	17
for contingent expenses, auditor's office	17
for contingent expenses of treasurers office	17
for postage on journals and bills by secretary of state	17
for contingent expenses of state librarian	18
for distribution of regular edition of journals and acts	18
for contingent expenses office commissioner agriculture	18
to pay assistant superintendent of printing	18
for contingent expenses of secretary of state	18
for state board of regents	18
for state board of control	18
for semi-centennial of formation of West Virginia	19
for public service commission	19
for salaries and expenses Virginia debt commission	19
for expenses of commission to investigate bribery charges	19
for protection of Point Pleasant monument grounds	19
for aid to anti-tuberculosis league of West Virginia	20
for West Virginia hospital for insane	20
for second hospital for insane	20
for West Virginia asylum (at Huntington)	20
for miners' hospital No. 1	20
for miners' hospital No. 2	20
for miners' hospital No. 3	21
for West Virginia reform school	21
for West Virginia industrial school for girls	21
for West Liberty normal school	21
for Glenville normal school	21
for Shepherd college	21
for Concord normal school	21
for West Virginia colored institute	22
for Bluefield colored institute	22
for insurance on public buildings	22

APPROPRIATIONS— <i>Continued.</i>	Page
for West Virginia school for the deaf and blind	22
for West Virginia university	22
for preparatory branch of university at Montgomery	22
for preparatory branch of university at Keyser	22, 23
for Marshall college	23
for Fairmont normal school	23
for compensation of institute instructors	24
for distribution of general school fund	24
for state tuberculosis sanitarium	24
for expenses of ex-union and ex-confederate soldiers to Gettysburg	24
for county superintendents of free schools	24, 25
for supplemental aid to schools	25
for printing for free school department	25
for salary of chief clerk of state superintendent of free schools...	25
for salary of other clerks of same department	25
for salary of stenographers, same department	25
for contingent expenses of superintendent of free schools	25
for purchase of books for office of state superintendent	25
for per diem and expenses of state board of education	25
for expenses of state superintendent under constitution	25, 26
for uniform examinations	26
for erroneous assessments	26
for erroneous payments into the treasury	26
for reprinting and binding supreme court reports	27
for pay of state agents	27
for state building at Panama exposition in California	27, 28

Miscellaneous Appropriations.

to pay Chesapeake and Potomac telephone company	28
to pay H. L. Downtain	28
to pay rent for typewriters	28
to pay Barrett Shipley & Co.	28
to pay Dawley Furniture Co.	28
to pay P. A. Donovan	28
to pay H. O. Baker & Co.	28
to pay S. Spencer Moore & Co.	28
to pay W. S. Melton	28
to pay A. N. Egan	28
to pay Eskew, Smith & Cannon	28
to pay Harry Gates	28
to pay Kanawha Repair Co.	28
to pay Morgan Lumber & Manufacturing Co.	28, 29
to pay Mrs. Virgil A. Lewis	29
to pay John P. Austin	29
to pay C. C. Bowyer	29
to pay board of control for use of Charles W. Campbell	29
to pay A. W. Woodall	29
to pay Farmers & Merchants bank of Morgantown assignee	29
to pay Weaver & Zeverly	29
to pay G. M. Clineinst	29
to pay Charleston Electrical Supply Co.	29
to pay Charleston Lumber Co.	29
to pay Fred N. Carr	29
to pay Daniels Department Store	30
to pay W. T. Eisenmith	30
to pay Grossman & Company	30
to pay Lewis-Hubbard & Company	30
to pay M. C. Lilly & Company	30
to pay J. M. Payne, assignee of George Byer	30

APPROPRIATIONS—*Continued.*

	Page
to pay D. G. Thompson	30
to pay L. B. Farley	30
to pay James A. Patterson	30
to pay Katherine deB. Wheatley	30
to pay West Publishing Company	30
to pay expenses of inauguration of Governor-elect H. D. Hatfield to pay expenses and per diem of committee appointed to investigate and report on employer's liability	30 30 30, 31
to pay Kanawha and Hocking Coal & Coke Company	31
to pay H. Rus Warne	31
to pay N. C. McNeil	31
to pay expenses of board of agriculture	31
to pay Baltimore Office Supply Company	31
to pay W. F. Carter	31
to pay Underwood Typewriter Company	31
for refunding county, district and municipal taxes	31
for refunding overpaid taxes	31
for delinquent taxes	32
defining words "nine months ending June 30, 1913	32
providing how state boards may draw appropriations	32, 33
names of persons to whom money is paid shall be given	33, 34
provision with reference to stationery and printing in the several departments	34, 35
no money shall be paid except	35
clerk of house and clerk of senate shall certify	35

*To Pay Members, Officers, etc., of the Legislature.**Extraordinary Session.**House of Delegates.*

for per diem of members	36
for mileage of members	36
for per diem of clerk	36
for per diem of Rossli A. Corder, page	36
for per diem of Geo. W. Smith, page	36
for per diem of Dorsey A. Farnsworth, page	36
for per diem of Roy Rhodes, page	36
for per diem of Robert L. Wintz, page	36
for per diem of H. C. Anderson, page	36
for per diem of Will Cunningham, page	36
for per diem of Frank Miller, page	36
for per diem of Samuel Kyle, page	36
for per diem of J. W. E. Keeny, page	36
for per diem of Halle Shannon, page	36
for per diem of W. Don Lewis, page	36
for per diem of Samuel Stephenson, page	36
for per diem of Robert Riblett, page	36
for per diem of Vernon Jarrett, committee clerk	37
for per diem of W. P. Scott, committee clerk	37
for per diem of John Nugent, committee clerk	37
for per diem of George Ford, committee clerk	37
for per diem of A. E. Lynch, committee clerk	37
for per diem of Peter Jones, committee clerk	37
for per diem of S. O. Smith, committee clerk	37
for per diem of W. B. Shaver, committee clerk	37
for per diem of A. S. McDougal, committee clerk	37
for per diem of Sylvester Curtis, committee clerk	37
for per diem of J. Buel Swope, committee clerk	37
for per diem of R. E. Fraley, committee clerk	37
for per diem of Enza Correll, committee clerk	37

APPROPRIATIONS—Continued.

	Page
for per diem of L. V. Reed, committee clerk	37
for per diem of Curtis Hanna, committee clerk	37
for per diem of Will A. Strickler, reading clerk	37
for per diem of Rudenz S. Douthat, desk Clerk	37
for per diem of Alva B. Moore, desk clerk	37
for per diem of L. J. Frey, printing clerk	37
for per diem of C. E. Anderson, printing clerk	37
for per diem of M. S. Griffin, journal clerk	37
for per diem of May Harmison, journal clerk	38
for per diem of J. L. Bateman, journal clerk	38
for per diem of B. M. Sigler, J. C. Hamilton, E. P. Willis and Roy Compton, engrossing and enrolling clerks	38
for per diem of Hugh Lawless, mail and banking page	38
for per diem of Ernest Santrock, page	38
for per diem of Howard S. Jarrett, printing clerk	38
for per diem of W. H. Rumburg, assistant sergeant at arms	38
for per diem of Joe Taylor and M. T. Whittico, cloak room at- tendants	38
for per diem of J. T. Shears, night watchman	38
for per diem of Thomas C. Boyles, assistant doorkeeper	38
for per diem of A. T. Cabell, gallery doorkeeper	38
for per diem of Charleton C. Pierce, private secretary to the speaker	38
for per diem of Myrtle Curry, stenographer	38
for per diem of L. C. Brisco, stenographer	38
for per diem of Lois Moore, stenographer	38
for per diem of Grace D. Cole, stenographer	38
for per diem of Miss Payton, stenographer	38
for per diem of Helen S. Brooks, stenographer	38

Senate.

for per diem of members	38
for mileage of members	30
for preliminary services and per diem of clerk	30
for per diem of James R. Mehen, sergeant-at-arms	30
for per diem of J. M. Dorsey, doorkeeper	30
for per diem of Mont Carper, assistant doorkeeper	39
for per diem of Bolsy Green, cloak room attendant	39
for per diem of Homer Gray and F. H. Scott, expert desk clerks..	39
for per diem of W. C. Hedrick, printing clerk	39
for per diem of C. F. Hardin, journal clerk	39
for per diem of A. O. Johnson, journal clerk	39
for per diem of Gertrude McCray and Mrs. C. N. Sims, stenog- raphers	39
for per diem of janitor and ten assistants	39
for per diem of two charwomen	39

*House of Delegates.**Regular Session.*

for per diem of members	40
for per diem of clerk	40
for per diem of sergeant at arms	40
for per diem of assistant sergeant at arms	40
for per diem of doorkeeper	40
for per diem of assistant doorkeeper	40
for per diem of gallery doorkeeper	40
for per diem of two cloak room attendants	40
for per diem of one day watchman	40
for per diem of one night watchman	41
for per diem of librarian	41

APPROPRIATIONS—Continued.

	Page
for per diem of chaplain	41
for per diem of sixteen committee clerks	41
for per diem of clerk of committee on taxation and finance	41
for per diem of clerk of committee on the judiciary	41
for per diem of nine floor pages	41
for per diem of mail and banking page	41
for per diem of five journal pages	41
for per diem of six floor stenographers	41
for per diem of stenographer of taxation and finance	41
for per diem of stenographer of the judiciary committee	41
for per diem of secretary to speaker	41
for per diem of stenographer to speaker	41
for per diem of Harry W. Hays, special clerk	41
for per diem of two desk clerks	41
for per diem of reading clerk	41
for per diem of two assistant journal clerks	41
for per diem of two printing clerks	41
for per diem of two assistant printing clerks	41
for per diem of bill record clerk	42
for per diem of two engrossing clerks	42
for per diem of two enrolling clerks	42
for per diem of stenographer to clerk	42
for per diem of one journal clerk	42
for per diem of assistant bill record clerk	42

Senate—Regular Session.

for per diem of members	42
for per diem of clerk	42
for per diem of sergeant at arms	42
for per diem of doorkeeper	42
for per diem of assistant doorkeeper	42
for per diem of gallery doorkeeper	42
for per diem of two cloak room attendants	42
for per diem of one day watchman	42
for per diem of one night watchman	42
for per diem of librarian	42
for per diem of ten committee clerks	42
for per diem of clerk of finance committee	42
for per diem of clerk of committee on judiciary	42
for per diem of seven floor pages	43
for per diem of mail and banking page	43
for per diem of three journal and bill pages	43
for per diem of six expert stenographers	43
for per diem of one chief stenographer	43
for per diem of two expert desk clerks-stenographers	43
for per diem of one stenographer in clerk's office	43
for per diem of two journal clerks and two assistant journal clerks	43
for per diem of two bill record clerks	43
for per diem of two printing clerks and two assistants	43
for per diem of two engrossing and two enrolling clerks	43
for per diem of one warrant clerk	43
for per diem of one bill editor and one assistant	43
for per diem of janitor	43
for per diem of ten assistant janitors	43
for per diem of two charwomen	43
for contingent expenses of House of delegates	44
for contingent expenses of the senate	44
for payment of notes given to raise money to pay militia in sup- pressing insurrection and executing the law in Kanawha county	45

APPROPRIATIONS— <i>Continued.</i>	Page
to carry into effect the provisions of the act pertaining to hotel inspection	52
to carry out the provisions of chapter 20 of these acts; (rate making), section 3	137
ADJUTANT GENERAL:	
appropriation to pay salary of	2
ADVANCED COPIES OF ACTS:	
clerks directed to have printed; H. J. R. No. 10	624, 625
AMENDMENT TO CONSTITUTION:	
providing for submission of question as to lieutenant governor to voters; S. J. R. No. 16	617, 618
AMENDMENTS TO CONSTITUTION OF UNITED STATES:	
ratified, relating to election of United States senators by vote of people; H. J. R. No. 20	608, 609
ratified, relating to taxes on incomes; S. J. R. No. 1	610, 611
ANTI-TUBERCULOSIS LEAGUE OF WEST VIRGINIA:	
appropriation for	20
ARCHIVES AND HISTORY, DEPARTMENT OF:	
appropriation for	11
ASSESSORS OF LANDS:	
may appoint a deputy, section 11	175
ATTORNEY GENERAL:	
appropriation to pay salary of	2
appropriation for assistants, clerks, etc.	16
member of board of public works	175
requested to assist committee on bribery charges	620
AUDITOR:	
appropriation for salary of	2
authorized to issue warrants	4
appropriation for clerks	16, 17
appropriation for contingent expenses	17
directed to issue warrants	30, 44, 45
shall issue warrant for, when; section 48	82
shall set aside and reserve moneys and other duties relating to crop pest commission; section 13	114
duty of as to domestic investment companies; section 5	117
other duties; sections 10, 11 and 14	119, 120, 121
a member of the board of public works	175
the auditor shall charge to each county fifty dollars for each youth kept in the industrial school the preceding year; section 11 ..	268
shall certify to the county court a list of the youth from the county in such school; may apply to the circuit court of the county for mandamus, if not paid in reasonable time; section 12	268, 269
AUSTIN, JOHN P.	
appropriation to pay	29
BANKS AND BANKING:	
banks; powers; use of terms "banks," "banking company" or "trust company," without charter is unlawful; real estate may be held for purposes named; violations of provisions; penalties; section 78	130, 140
increase or reduction of stock; section 78-a-1	140

BANKS AND BANKING—Continued.	Page
payment of capital stock; section 78-a-II	140, 141
personal liability of stockholders; section 78-a-III	141
directors, their qualification and oath; stockholders shall appoint examining committee; section 78-a-IV	141, 142
what associations shall be subject to the provisions of this chapter; section 78-a-V	142
every association shall file a certified copy of its charter, and re- ceive certificates before doing business; penalty for violation; building and loan associations shall file statements; penalty for false statements; section 78-a-VI	142, 143
commissioner of banking shall examine books and affairs of asso- ciations; section 78-a-VII	143, 144
unlawful for foreign associations to transact business in this state without certificate; how to secure certificate; section 78-a-VIII	144, 145
stocks not to be used as security for loans; section 79	145
limit of loans; section 79-a-I	145
provision concerning dividends; section 79-a-II	145
capital not to be impaired; section 79-a-III	146
enforcement of assessment; section 79-a-IV	146
list of stockholders to be exhibited; section 79-a-V	146
definition of bank or banking company; section 79-a-VI	147
reserve; section 80	147
bank shall not go into voluntary liquidation without first giving notice to banking commissioner; section 80-a-I	147
bonds of officers; section 80-a-II	147
bank supervision; section 81	147
appointment of commissioner; section 81-a-I	148
duties of commissioner; section 81-a-II	148
office and record of commissioner; section 81-a-III	148
examinations; section 81-a-IV	149
duties of officials of banks and other institutions; section 81-a-V	149
banks and other institutions improperly conducted; section 81-a-VI	150
insolvent banks or other institutions; section 81-a-VII	150, 151, 152
insolvent banks receiving deposits; section 81-a-VIII	152
call statements; section 81-a-IX	152
certificate of authority; section 81-a-X	153
collection of capital stock; section 81-a-XI	153
compensation of commissioner; section 81-a-XII	154
commissioner's report; section 81-a-XIII	154
verification of report; section 81-a-XIV	154
other institutions subject to this act; section 81-a-XV	155
bonds of state's depositories; section 81-a-XVI	155
penalty for embezzlement, deceit or false statements; section 81-a-XVII	155, 156
penalty for officer, clerk or others certifying check falsely; sec- tion 81-a-XVIII	156
unlawful to issue certificate of deposit for purpose of borrowing money; section 81-a-XIX	156
penalty; inconsistent acts repealed; section 81-a-XX	156
BAKER, H. O. & CO.:	
appropriation to pay	28
BALTIMORE OFFICE SUPPLY COMPANY:	
appropriation to pay	31
BARBOURSVILLE, TOWN OF, CABELL COUNTY:	
bonding power increased, additional levy authorized	484

INDEX TO THE ACTS.

xxix

	Page
BARRETT & SHIPLEY COMPANY :	
appropriation to pay	28
BERKELEY SPRINGS BOARD :	
appropriation for	9
BIRTHS AND DEATHS :	
registration of physicians and accoucheurs; reports of births and deaths; forms; section 18	172, 173
fee for making reports; all the facts required; section 21.....	173
BLUEFIELD COLORED INSTITUTE :	
appropriation for	20
BOARD OF AGRICULTURE :	
appropriation to pay expenses and salaries	31
BOARD OF CONTROL :	
appropriation to pay salary of members	3
appropriation for benefit of Chas. W. Campbell	29
(see state board of control)	
BOARD OF EXAMINERS IN OPTOMETRY :	
appropriation for	3
BOARD OF PUBLIC WORKS :	
hydro-electric and other companies shall have the approval of the board of public works, before they can exercise the powers authorized in chapter eleven of the acts herein; duties of the board; section 16	88, 89
power of board of control as to construction of any dam; section 17	90, 91
powers and duties vested in the board of public works shall be vested in public service commission, when such commission is created; section 24	93
how constituted	175
BOYER, C. C. :	
appropriation to pay	29
BRIBERY :	
raising joint committee to investigate bribery charges against certain members and persons unknown; S. J. R. No. 22	619, 620
attorney requested to assist committee S. J. R. No. 23	620, 621
appropriation to pay expenses of commission appointed to investigate bribery charges against members of senate and house; section 40	19
BRIDGES ACROSS SHENANDOAH RIVER :	
freeholders may petition for bridge; duty of county court; section 1	208
election to be held to vote on bridge question, when; section 2....	208
time of election to be fixed; places of voting; who entitled to vote; section 3	209
publication of order; section 4	209
election, how held; section 5	209
vote necessary to authorize issuing of bonds; section 6	209
bonds; section 7	209
bonds disposed of at public or private sale; section 8.....	210
county court shall lay bridge levy; section 9	210
tolls may be imposed; section 10	210
BUREAU OF LABOR :	
appropriation to pay salary	3
appropriation for	8

CAMERON CHARTER :	Page
body politic and corporate; section 1	342
boundaries; section 2	342
officers; section 3	343
municipal authorities—mayor, clerk and councilmen; section 4....	344
when act to take effect; section 4a	344
elections; section 5	344
certain powers granted; section 6	344
terms of officers; section 7	345
officers shall take oath of office; section 8	345
council to define duties and fix compensation of officers appointed; section 9	345
council shall require and take bonds from certain officers; sec- tion 10	345
council may remove elective officers; section 11	346
council to fix time and place of meetings; presiding officer; quorum; section 12	346
clerk shall keep minute and ordinance book; keep papers; sec- tion 13	346
proceedings shall be read; section 14	347
when ordinance or by-law deemed adopted; section 15	347
powers of council; section 16	347 to 349
franchises; section 17	350
council to pass ordinances; section 18	350
mayor—his duty; salary; section 19	351
process to be summons; section 20	351
mayor to issue execution; section 21	352
jailer, who shall act; section 22	353
mayor's docket; section 23	353
appeal; section 24	353
what to be done in case of appeal; section 25	354
if appellant be found guilty; section 26	354
how appeals allowed; section 27	354
clerk, duties of; section 28	354
clerk to have access to assessor's books; to make tax tickets; sec- tion 29	355
clerk to prepare bills for license taxes; collection; statements; salary; section 30	355
treasurer, appointment and duties of; shall give bond; section 31	356
solicitor; section 32	356
chief of police, his duty; section 33	357
chief of policeman's duty as to offense in view; section 34	357
chief of police <i>ex officio</i> collector; section 35	358
capitation tax; section 35a	358
collection of taxes, etc.; section 36	359
chief of police to give bond; section 37	360
health officer, duty and salary; section 38	361
water rents; section 39	361
street commissioner; section 40	361
city engineer; section 41	361
lien for taxes; how real estate is returned delinquent for taxes; section 42	361
liquor license, how granted, except; section 43	362
what council shall do as to license; section 44	362
council may revoke license for breach; section 45	363
council may impose tax on such license; section 46	363
licenses generally; section 47	363
council shall prescribe how licenses shall be applied for and granted section 48	363
power to condemn; section 49	364

CAMERON CHARTER—Continued.	Page
sidewalks; section 50	364
street paving; section 51	365
levy; duty of council; section 52	365
financial statement; section 53	366
power of city to issue bonds; section 54	367
city of Cameron shall succeed to all rights of town of Cameron; section 55	367
this act not to be effective until a majority of voters favor it at election; section 56	367
duty of mayor now in office; section 57	368
inconsistent acts repealed; section 58	368
CAMPBELL, CHAS. W.:	
appropriation for	29
CAPITOL AND GROUNDS:	
appropriation for	12
appropriation for labor fund for	15
CARR, FRED N.:	
appropriation to pay	29
CARTER, W. F.:	
appropriation to pay	31
CHARLESTON ELECTRICAL SUPPLY CO.:	
appropriation to pay	29
CHARLESTON LUMBER CO.:	
appropriation to pay	29
CHARLES TOWN CHARTER:	
power of council defined; section 21	368 to 370
CHARTERS, MUNICIPAL:	
Huntington amended	272, 325, 486
Wheeling	285
Wheeling amended	607
Cameron	341
Charles Town amended	363
Piedmont	370
Grafton	400
Martinsburg, amended	418
Fairmont	425
Logan, amended	483
Barboursville, to increase bonding power	484
Sistersville, amended	485
Chester, amended	503
Princeton	506
Parkersburg, amended	530
Keyser	539
Weston, amended	586
CHESTER CHARTER AMENDED:	
powers of council defined; section 16	503 to 506
CIGARETTES, CIGARETTE PAPER AND TOBACCO:	
unlawful to manufacture, sell, offer for sale or give or cause to be given any person under twenty-one years cigarette or cigar- ette paper; unlawful to sell, give or furnish to any person under sixteen years any cigar, pipe or tobacco; section 1. . .	122
unlawful for any person under twenty-one years to smoke, or have	

	Page
CIGARETTES, CIGARETTE PAPER AND TOBACCO—Continued.	
about his person cigarette or cigarette paper; penalty for violation; court of justice may; section 2	122, 123
duty of officers; penalty against officers for failure to do duty; section 3	123
a misdemeanor to smoke cigarette on school premises; section 4 ..	123
unlawful to furnish any person opium except as prescribed; section 5	123
for violation of any of the provisions of this act; section 6	124
inconsistent acts repealed; section 7	124
CIRCUIT COURTS:	
terms in twelfth judicial circuit; section 1	210
time for holding in Webster county; section 2	211
time for holding in Upshur county; section 2	211
judge of twenty-third circuit may appoint stenographer; duty; title; must qualify; section 1	211
compensation of stenographer; section 2	212
duty of stenographer; section 3	212
compensation in criminal and civil cases, who shall pay, section 4 ..	212
stenographer authorized to take affidavits, administer oaths and take acknowledgments; section 5	212
judge may appoint page; section 6	213
acts shall not apply to twenty-third judicial circuit; section 7 ..	213
number of terms and time of holding circuit court in Braxton and Nicholas counties; section 2	216
time for holding circuit court in Wood and Wirt counties; section 5 ..	220
time for holding circuit court in Boone, Logan and Wayne counties; section 8	222
time for holding circuit court in Taylor and Preston counties; section 1	223
number of terms of court in twentieth judicial circuit; section 1 ..	223
time for holding circuit courts in Greenbrier and Pocahontas counties; section 2	223
CLERKS AND CONTINGENT EXPENSES, SUPERINTENDENT FREE SCHOOLS OFFICE:	
appropriation for	25, 26
CLERK OF ANY COURT:	
may appoint deputy with consent of; section 11	174
CLERK OF COUNTY COURT:	
duty as to inheritances, etc.	167, 168
duties as to registration of voters; section 3, 7, 10	169 to 171
as to births and deaths; section 18	172
may appoint deputy; section 11	174
authorized to have printed and furnish county road form of order, etc.	207
CLERK OF HOUSE OF DELEGATES:	
shall certify	35
together with speaker of house may purchase	44
appropriation to pay	36
shall furnish list of names to secretary of state	179
CLERK OF SENATE:	
shall certify	35
appropriation to pay	39
together with president may purchase	44
shall furnish list of names to secretary of state	179

INDEX TO THE ACTS.

xxxiii

	Page
CLERKS OF THE TWO HOUSES :	
to have printed advance copies of the acts H. J. R. No. 10.....	624
compensation for services; H. J. R. No. 10	625
CLINEDINST, G. M. :	
appropriation to pay	20
COMMISSIONER OF AGRICULTURE :	
appropriation to pay	2
appropriation to pay clerks, etc.	17
a member of board of public works	175
COMMISSIONER OF BANKING :	
appropriation to pay salary	3
appropriation for assistants, clerks, etc.	7
(sec banks and banking for duties)	139 to 156
appointment of; section 81-a-I.....	148
compensation of; section 81-a-XII.....	154
COMMISSIONERS OF PHARMACY :	
appropriation for	7, 8
COMMITTEE ON EMPLOYERS LIABILITY INQUIRY :	
appropriation to pay	30, 31
COMMON DRINKING CUP :	
(sec drinking cup)	158, 159
CONCORD NORMAL SCHOOL :	
appropriation for	21
CONGRESS OF UNITED STATES :	
memorialized as to Kenyon-Shepard liquor bill; H. J. R. No. 18...	609
memorialized as to pension for home guard soldiers; H. J. R. No. 22	610
memorialized to enact into law senate bill 6247 and to provide for	
payment to West Virginia sums of money due from lands	
ceded to the United States in 1784; S. J. R. No. 4	611 to 617
memorialized to divide West Virginia into three federal districts for	
judicial purposes; H. J. R. No. 8	623, 624
CONTINGENT EXPENSES OF VARIOUS OFFICES :	
appropriation for	17
COUNTY COURT :	
shall allow annually to county officers for their public services;	
section 49	176, 177, 178
In Jefferson county to appoint librarian	181
shall ascertain condition of fiscal affairs; publish notice; lay levy;	
may lay additional levy for road purposes	180 to 192
when it proposes to improve permanently a road and desires to use	
prison labor thereon, it may apply to chief road engineer,	
etc.; section 12	195
when it shall have decided to construct or improve said road, etc.,	
it may apply to the board of control, and state number of	
convicts desired, not to be less than ten; section 13	196
shall enter into contract, when; section 15	197
expenses of county road engineer to be paid, when allowed by the	
county court; section 17	197
shall pay physician, when; section 24	199
when desiring to obtain convict labor on its roads, shall agree to	
supply material, to be; section 25	199
county road engineer or other official to be designated by the	
county court; section 14-a-I	201

	Page
COUNTY COURT—Continued.	
approval of as to employment and allowance to guards with prisoners working on roads; section 1	202, 203
approval of and allowance to guards with prisoners not convicted, working on roads; section 1	204
may set apart and appropriate out of the funds in the hands of sheriff belonging to districts, to be subject to the order of the county road engineer; section 1	205 to 207
duty of as to petition for bridge across Shenandoah river; section 1	208
may order an election to vote on issue of bonds and may provide for payment of interest semi-annually; section 2	208, 209
appoint date for election; section 3	209
shall proceed with construction of bridge, if; section 6.....	209
shall dispose of bonds; section 8	210
shall lay bridge levy, etc.; section 9	210
may impose tolls, etc.; section 10	210
(see county court of Tucker county)	213
(see county court of Grant county)	218
authorized to pay judge of the circuit court additional compensation, when; section 1	221
may lay special levy in Wayne county; section 1	224
shall pay expense of conducting youth to industrial school; section 7	266
shall pay into the state treasury fifty dollars on account of each youth from the county, when; section 10	266, 267
shall provide for payment of amount due on account of inmates in industrial school; section 12	268, 269
COUNTY COURT OF GRANT COUNTY:	
county shall be laid off in districts; court reformed; shall be composed of three commissioners; how selected; justice of the peace not eligible; compensation; section 1	218
when elected; term; section 2	218
jurisdiction and powers of court; clerk; quorum; section 3	218
first meeting under this act; section 4	219
the system to be submitted to voters for approval; form of tickets; section 5	219
election to be held and certified; section 6	219
result of election to decide the effect of act; section 7	220
COUNTY COURT OF TUCKER COUNTY:	
county shall be laid off in seven districts; county court reformed; shall be composed of seven commissioners; how selected; justice of the peace not eligible; compensation; section 1 ..	213
when elected; term to begin; section 2	214
jurisdiction and powers; section 3	214
first meeting of county court; section 4	214
system shall be submitted to voters of county for approval; form of ticket; section 5	214
election to be held and certified; section 6	215
result of election to decide effect of act; section 7	215
COUNTY FINANCIAL SECRETARY:	
county superintendent of schools shall be <i>ex officio</i>	235
(for duties see education)	232 to 236
COUNTY OFFICERS:	
the county court shall allow annually for their public services; section 49	176, 177, 178

	Page
COUNTY ROAD ENGINEER :	
(see road building)	192 to 201
(see courts' appropriation for roads)	205 to 206
COUNTY SUPERINTENDENT OF FREE SCHOOLS :	
directing payment to	25, 26
<i>ex officio</i> county financial secretary; section 149-a	235
CRIMINAL CHARGES :	
appropriation to pay	5
CROP PEST COMMISSION :	
state crop pest commission created; shall appoint state entomologist and other assistants; duties of commission; penalty for refusing to comply with orders; section 1	108
powers of commission; section 2	109
duty of commission as to nursery stock grown or brought in this state; penalty against common carrier for violation; section 3	109
power of entomologist and assistants; section 4	109
treatment to be executed; section 5	110
trees or vines, etc., diseased to be marked—and treated as ordered; duty of officer in case of refusal or neglect; section 6	110, 111
authority of officers to enter premises; section 7	111
unlawful to deliver in this state nursery stock that has not been inspected; duty of transportation companies; penalty; section 8	111, 112
freeholders may petition for investigation of locality; section 9	112
county court or municipality to fix compensation of inspector; section 10	112, 113
duty of entomologist and assistant; section 11	113
unlawful to offer for sale or give away nursery stock without first procuring certificate; penalty; section 12	113, 114
auditor's duty as to money; section 13	114
charges against appropriation for funds, etc.; biennial report to be made; section 14	114
inconsistent laws repealed; section 15	114
DANIELS DEPARTMENT STORE :	
appropriation to pay	30
DAWLEY FURNITURE CO. :	
appropriation to pay	28
DELINQUENT TAXES :	
auditor shall credit, etc.	32
DEPARTMENT OF MINES :	
appropriation to pay salary of chief of	3
appropriation to pay inspectors, clerks, etc.	7
DEPUTY SHERIFF :	
sheriff may appoint deputy with the consent of the circuit court; not lawful to appoint deputy to act as guard or watchman for individual, firm or corporation, nor appoint deputy to act for or represent as officers of the law any individual, firm or corporation; section 11	173, 174
DONAVAN, P. A. :	
appropriation to pay	28
DOWNTAIN, H. L. :	
appropriation to pay	28

	Page
DRINKING CUP, COMMON:	
use of common drinking cup, prohibited in all places; section 1 ..	158
board of health has authority to establish rules and regulations;	
section 1	158
penalty for failure to observe provisions of this act; section 2 ...	158
inconsistent acts repealed; section 3	159
EAGAN, A. N.:	
appropriation to pay	28
EDUCATION:	
First meeting; appoint secretary; oath; duty; deliver records, etc.,	
to successor in office; section 45	232
teachers paid by orders drawn on school treasurer; section 99 ...	232
accounts to be kept; pay out no money except on orders; section	
138	233
annual settlement with financial secretary; what shall be charged	
and credited; section 139	233
orders found to be correct, shall be a credit; commission; sec-	
tion 140	233
shall make lists of credits; method of settlement; section 141	233, 234
annual settlements with by districts with county court; section 142	234
When treated as settlement; how corrections may be made; sec-	
tion 143	234
penalty for failure to settle, section 146;	235
if sheriff falls when suit shall be brought; section 147	235
penalty for failure on part of financial secretary, section 148 ...	235
turn over to successor; section 149	235
ex officio county financial secretary; section 149a	235
duties of financial secretary; section 149b	235
county court to provide suitable office in the court house for fin-	
ancial secretary; section 149c	235
no order shall be paid until countersigned by financial secretary	
after July 1, 1913; acts inconsistent with this repealed; sec-	
tion 149d	236
teachers' certificates, duration; section 87	262
see schools, joint high; section 30 1/2	225
ELECTION RETURNS:	
providing for meeting of the two houses to open and publish re-	
turns of election of state officers; H. C. R. No. 2	623
ELK:	
no person shall hunt, chase, wound or kill elk for fifteen years ...	172
owners may kill under certain conditions; penalty for violation....	172
EISENSMITH, W. T.:	
appropriation to pay	30
ERRONEOUS ASSESSMENTS:	
appropriation for	26
ERRONEOUS PAYMENTS INTO THE TREASURY:	
appropriation for	26
ESKEW, SMITH & CANNON:	
appropriation to pay	28
FAIRMONT CHARTER:	
the city of Fairmont; section 1	427
corporation limits; section 2	427 to 429
wards; section 3	429, 430
municipal authorities; section 4	430

FAIRMONT CHARTER—Continued:

	Page
corporate powers; section 5	430
powers of board of affairs; section 6	430 to 435
common council; section 7	435
elect president; section 8	435
clerk; section 9	435
common council enter upon duty; section 10	435
failure to qualify, etc.; how vacancy is filled; section 11	435
vacancy of president, how filled; section 12	435
right of veto; section 13	435
hear and determine charges; section 14	436
no commissioner shall be removed except; section 15	436
proper rules to be made; section 16	436
department of city government; section 17	436
how designation of city departments are made; section 18	437
commissioner of each department to have office; section 19	437
election of mayor; section 20	437
how tie vote decided; section 21	437
vacancy in office of mayor, how filled; section 22	437
rights and powers of mayor; section 23	438
additional officers; section 24	438
qualification of voters; section 25	438
registration of voters; section 26	439
nomination of candidates; section 27	439
nomination to fill vacancy; section 28	439
nominee for commissioner shall file statement; section 29	439
election of officers, when; section 30	440
election of members of council; section 31	440
eligible as commissioner; section 32	440
board of affairs, number to be voted for; who to be declared elected; section 33	440
tie vote, how decided; section 34	441
council, number to be voted for; who to be declared elected; section 35	441
how election shall be held; section 36	441
contested elections; section 37	441
oaths of office; section 38	441
bonds of officers; section 39	442
term of office; section 40	443
terms of appointive officers; section 41	443
salary of commissioners; section 42	443
salary of appointive officers; section 43	443
pay of day laborers; section 44	443
duties of appointive officers; section 45	444
meetings of board of affairs; section 46	444
special meetings, how called; section 47	444
vote, how taken upon question or motion; section 48	444
minutes of the meeting; section 49	444
meetings of common council; section 50	444
special meetings of the council; section 51	445
attendance of witnesses, punishing contempts, etc.; section 52	445
quorum; section 53	445
filling vacancy in office of commissioner; section 54	445
in case of more than two vacancies on board of affairs, how filled; section 55	446
absence of officers; section 56	446
member of board of affairs can hold one office only; section 57	446
appointed officers shall not hold two official positions; section 58	447
purchasing supplies; section 59	447
police judge and other officers; section 60	447

FAIRMONT CHARTER— <i>Continued:</i>	Page
franchisees and ordinances that require vote of at least three members of board; section 61	448
when franchise effective; section 62	448
when ordinance effective; section 63	448
in case of veto, what; section 64	448
tie vote on passage of franchise, how decided; section 65	449
publication of notice to present franchise required; word franchise defined; section 66	449
style of ordinances; section 67	449
licenses; section 68	450
nuisances; section 69	450
board may require owners or others to connect sewers; section 70	
sidewalks and shade trees; section 71	452 to 455
taxes, levies, assessments, etc.; section 72	455
board has authority to levy and collect annual tax; section 73	456
taxes assessed to be a lien; duties of clerk and treasurer; section 74	456
no taxes to be collected for roads out side corporate limits; section 75	457
capitation tax two dollars; section 76	457
depositing city funds; section 77	457
street paving; section 78	458 to 461
may issue bonds for paving, grading, etc.; paving, etc., defined; section 79	461 to 465
proportion of total costs, how adjusted; section 80	465
board may cause costs of grading, etc., to be paid in manner; section 81	465
upon petition board may order paving or macadamizing done; section 82	467
sewer construction; section 83	467 to 469
release of lens; section 84	470
may issue and sell bonds, if approved by voters at election; vote necessary; section 85	471
may issue and sell bonds for water works; section 85a	472
costs of contemplated improvements shall include; section 86	472
sufficient description as to abutting lands; section 87	473
when work completed on avenue, etc., what required; section 88 ..	474
civil service board may be appointed; section 89	474
who shall be selected for positions; section 90	475
term of service of appointees in case civil service board is created; who to determine; charges against officers or persons holding positions; section 91	475
code of laws, etc.; section 92	475
non-partisan administration; section 93	476
service of notice; section 94	476
board of affairs successor to council; section 95	476
officers of Barnesville; section 96	476
mayor and council of Fairmont to continue in office until; section 97	476
duty of council of Fairmont as constituted before this act takes effect, with respect to election, etc.; duty of clerk; section 98	477
existing ordinances in Barnesville; section 99	478
ordinances in Fairmont; section 100	478
clerk custodian of records; section 101	479
recall; section 102	479, 480
initiative; section 103	481
referendum; section 104	482
petitioners must be legal voters; section 105	482

FAIRMONT CHARTER—Continued:	Page
this act to be ratified by voters; election; form of ticket; section 106	483
Inconsistent acts repealed; section 107	483
FAIRMONT NORMAL SCHOOL:	
appropriation for	23
state board of control authorized to sell grounds and buildings; section 1	250
proceeds to be paid into state treasury; section 2.....	250
appropriation for purpose of relocating and rebuilding; section 3	251
FARMERS AND MERCHANTS BANK OF MORGANTOWN:	
appropriation to pay to, as assignee of Hobb & Co.	20
FARLEY, F. B.:	
appropriation to pay	30
FEEES OF OFFICERS:	
fees for jailer in civil and criminal cases; section 22	187
FISCAL YEAR:	
begin July 1	1
officers or boards shall complete report covering what time	1
defined in appropriations	32
FLORENCE CRITTENDEN HOME:	
appropriation for	15
FORESTRY, GAME AND FISH:	
appropriation for	8, 9
FORESTRY, GAME AND FISH PROTECTION:	
appropriation for	9
FORESTRY, GAME AND FISH WARDEN:	
appropriation for	3
GATES, HARRY:	
appropriation to pay	28
GENERAL SCHOOL FUND:	
appropriation for distribution	24
GETTYSBURG SEMI-CENTENNIAL:	
appropriation for transportation expenses	24
GLENVILLE NORMAL SCHOOL:	
appropriation for	21
GOVERNOR:	
appropriation to pay salary of	2
to admnlster Gettysburg semi-centennial appropriation	24
appropriation for inauguration of	30
office of, appropriation for	12, 13
mansion and ground, appropriation for	12
civil contingent fund	12, 13
shall appoint hotel inspector	46
shall appoint four members of public service commission	53
to designate the term of each commissioner	53
may remove commissioner for	53
shall appoint commissioner of banking; section 81-a-1.....	148
shall appoint members of board of health, when; section 2.....	160
shall name secretary of board of health; section 3	160

GOVERNOR—Continued.	
a member of board of public works	Page 175
shall appoint a civil engineer to be professor in charge of railway and highway department of the state university; section 2 ..	193
to designate physician to make monthly inspection of camps where convict road force is employed; section 31	200
GOVERNOR'S MANSION AND GROUNDS:	
appropriation for	12
GOVERNOR'S OFFICE:	
appropriation for	12, 13
GRAFTON CHARTER:	
the city of Grafton; body politic; rights, privileges and powers; section 1	400
corporate limits; section 2	401
general and special laws, in force; section 3	402
time of election; mayor and two commissioners; in case of vacancy; term; section 4	402
candidates shall be nominated by primary election; person desiring to be a candidate must; how primary shall be held; form of ballot; section 5.....	402 to 405
city shall be governed by council; quorum; proceedings; section 6	405
powers of council; section 7	406
mayor shall be superintendent of department and commissioner of other departments; officers elected by commission; section 8..	406
commission to request banks to offer interest; select depository; section 9	407
power to create, fill and discontinue offices; section 10	407
mayor and commissioners shall have office in city; salary; section 11	407
regular meetings of commission; mayor to preside; section 12 ...	408
orders or ordinances appropriating money, etc.; franchise; section 13	408
no officer shall receive pass, frank, free ticket or service, except; section 14	408
civil service board, its duty; section 15	409
printed itemized statement quarterly; section 16	409
may revise and make additional appropriations when; section 17 ..	409
rules to be observed in construction of this act; section 18	409
right to levy and collect taxes; other powers defined; section 19 ..	410
may cause streets and alleys to be paved; how to be paid; lien; section 20	411, 412
may levy annual tax for specific purposes; section 21	413
elective officers may be removed by voters; (recall) election defined; section 22	413 to 415
ordinance may be submitted to commission by petition; an election shall be called if; section 23	415
when ordinances go into effect, except; section 24	416
petition to be signed only by legal voters; section 25	417
how to fill two vacancies; section 26	417
this act shall be submitted to the voters of the city for ratification; section 27	418
GROSSMAN & COMPANY:	
appropriation to pay	30
HIGH SCHOOL OF CLAY COUNTY:	
authorized to lay levy sufficient to complete and furnish building; section 1	271

	Page
HOSPITAL FOR INSANE :	
(at Weston) appropriation for	20
(at Spencer) appropriation for	20
HOTEL INSPECTOR :	
governor shall appoint hotel inspector; term of office; oath required; bond; shall have experience; salary; expenses; fees collected; certificates; section 1	46
state board of health to make rules, etc., approved by attorney general; enforcement; pure food; section 2	47
what deemed hotel or restaurant; section 3	47
when application shall be made to hotel inspector, by hotel or restaurant keepers, permits; fees required of hotel and restaurant keepers; certificates of inspection; section 4	47
certificates shall show; section 5	48
when license may issue; section 6	48
keeper shall file written application on form furnished, for inspection; when fee shall be paid; section 7	48
inspectors duty as to examination; privacy of guest; section 8	48
owner shall make changes and alterations to comply with law, when; penalty for refusal to comply; section 9	49
how rooms shall be lighted and ventilated; section 10	49, 50
what required at every hotel in towns with water works and sewerage systems; section 11	50
every hotel in towns without a system of water works shall have privies, etc.; section 12	50
what must be provided when erecting hotel three stories high or more; section 13	50
every hotel must be provided with fire extinguisher for each floor of; section 14	50
each hotel shall be provided with public wash room; towels, etc., in private rooms; section 15	51
hotels and restaurants shall post prices; section 16	51
keepers shall not knowl'g'y employ any person who has infectious disease; section 17	51
penalty for not disinfecting room or bed occupied by person with infectious disease; section 18	51
what bed, bunk or cot shall be provided with; section 19	51
what shall be done to bed bugs; section 20	52
all notices to inspector shall be in writing; section 21	52
persons who operate or let a building to be used as hotel without complying with this act, guilty of a misdemeanor; penalty; section 22	52
prosecuting attorney's duty; section 23	52
this act shall not apply to hotel, etc., where there are less than ten bed chambers; or to "summer hotel;" nor to any hotel where transient rate is one dollar and fifty cents or less per day; section 24	52
appropriations of money; section 25	52
HUBBARD, LEWIS & CO. :	
appropriation to pay	30
HUNTINGTON CHARTER :	
<i>Chapter 73.</i>	
powers of board of commissioners defined; section 6	272 to 278
departments of city government; section 17	278
defining titles of heads of departments; duties and powers; section 18	278
additional officers; section 24	278
bond of officers; section 39	278

HUNTINGTON CHARTER— <i>Continued.</i>	Page
annual tax on real estate and personal property; license on certain property; additional levy; section 73	280
paving streets and constructing sewers and water works; section 78	280
power to issue bonds for public improvements; section 79	281 to 284
bond issue to pay for paving and sewer construction; three-fifths vote of people necessary; section 85	284
<i>Chapter 75.</i>	
sidewalks and shade trees; section 71	325 to 329
street paving; section 78	329 to 332
power to issue bonds for public improvements; section 79	332 to 334
manner of paying for paving; section 81	335
sewer construction, how paid; section 83	336 to 338
release of liens; section 84	338 to 340
notices of assessments about to be laid; inconsistent acts repealed; section 88	340
<i>Chapter 85.</i>	
sidewalks and shade trees; section 71	487 to 490
street paving; section 78	490 to 493
may issue bonds for providing for costs of grading, paving, etc; section 79	493 to 496
board may contract for paving, etc., acquire land for street purposes, etc., how paid; section 80	496
sewer construction; section 83	497 to 499
release of liens; section 84	499 to 501
notice of assessments about to be laid; section 88	501
may issue and sell bonds for erecting or maintaining system of water works; section 85-a	502, 503
HYDRO-ELECTRIC AND OTHER COMPANIES:	
what water streams are under control and supervision of state; section 1	85
rights and powers of corporations to acquire and condemn lands, etc.; section 2	85, 86
have right to condemn and acquire mills, etc.; section 3	86
may acquire by condemnation ferries, etc.; section 4	86
may acquire by condemnation private roads, etc.; section 5	86, 87
have the right to flood cemeteries: condemnation of lands, both public and private; shall remove all bodies before; section 6	87
may acquire rights-of-way; section 7	87
right to erect and operate wires, poles, etc., across public roads; section 8	88
may acquire rights-of-way not to exceed in width; section 9	88
may condemn land owned by churches; section 10	88
condemn, raise or change pipe line; section 11	88
may remove timber outside of right-of-way; section 12	88
dam considered authorized; section 13	88
powers of public utility corporations; section 14	88
how condemnation procedure is had; section 15	88
the approval of the board of public works must be had before powers can be exercised; board shall employ expert engineers; power and duty of board; duty of corporation; license tax; section 16	88, 89, 90
power and duty of board of public works; section 17	90, 91
license tax to be paid annually; statement to be filed with state tax commissioner; right of appeal; section 18	91, 92
shall furnish product without discrimination; board of public works may vacate any rule; section 19	93
no interference with jurisdiction of United States as to streams; section 20	93

HYDRO-ELECTRIC AND OTHER COMPANIES—Continued.		Page
a lien to secure payment of license tax; section 21		93
shall not provide passage for fish; section 22		93
to hold part of this act unconstitutional does not affect remainder; section 23		93
duties of board of public works, vested in public service commission; section 24		93
right of appeal to person believing himself injured; section 25.....		94
charter or franchise shall be renewable, when; section 26		94
rights of corporation subject to right of any municipality, when; section 27		94
inconsistent acts repealed; section 28		94
INDEPENDENT SCHOOL DISTRICT OF BELINGTON :		
boundaries of the district set out by course and distance; section 1		236, 237, 238
INDEPENDENT SCHOOL DISTRICT OF CHURCH :		
what shall be Church independent school district; section 1		239
board of education; who are eligible; section 2		239
how members of board are selected; term of service; how vacancies are filled; section 3		239
board shall elect president; his term; entitled to one vote; section 4		240
secretary; how selected; duties and compensation; section 5.....		240
compensation of commissioner; section 6		240
president or secretary <i>pro tempore</i> ; section 7		240
board may hold regular meetings; special meetings may be called; how; quorum; section 8		240
board a body corporate; section 9		241
enumeration of youth to be taken annually; when; section 10.....		241
board to provide houses, furniture, etc., and keep in repair; supply fuel, levy tax, how, for what purposes; deposit in bank special levy; section 11		241, 242
levy a tax to support school, teachers' fund; may extend school term; section 12		243
upon failure of board to lay levy, the circuit court shall compel; section 13		243
assessment levied, collected and accounted for; section 14		243
property exempt from taxation; how title is vested; section 15..		243
board may make rules, etc; section 16		243
board has power to furnish books, fix salaries, etc; section 17.....		244
who entitled to admission to schools; section 18		244
sub-districts; section 19		244
board to elect superintendent, fix his salary; his duty; how vacancy may be filled; section 20		244
board may appoint assistant superintendent; section 21		245
duty of superintendent; board may refuse to appoint; recommendations; section 22		245
officers shall not receive gift for, etc.; penalty; section 23		245
superintendent may issue certificates: state superintendent may revoke; section 24		245
how certificates may be granted; section 25		246
teachers may be required to pass on additional subjects; section 26		246
duty of superintendent as to schools; section 27		246, 247
teachers subject to; section 28		247
teachers, how appointed; section 29		247
board may establish high schools; section 30		247
board may abolish sub-district and make other provisions; sec-		

INDEPENDENT SCHOOL DISTRICT OF CHURCH— <i>Continued</i>	Page
tion 31	247
may hold institute in district; section 32	248
penalty for defacing property; section 33	248
board prescribe circumstances under which school house may be used; section 34	249
medical inspection; section 35	249
inconsistent laws void; section 36	249
when this act shall become effective; an election provided for; section 37	249
INDEPENDENT SCHOOL DISTRICT OF HUNTINGTON:	
district enlarged; boundaries set out; to be submitted to voters; section 2-a	253. 254. 255
INDEPENDENT SCHOOL DISTRICT OF SAINT ALBANS:	
if a majority vote in favor, the independent school district is established; boundaries; section 1	255
board of education shall consist of three; who eligible; powers, duties, etc.; election; term of office; section 2	256
board meeting; organization; compensation; section 3	256
board; rights and powers; section 4	257
board, power; bonds; branches to be taught; section 5	257
admission to various schools; section 6	258
sheriff to collect and disburse; section 7	258
appoint superintendent; salary, his duties; section 8	258
board shall meet, employ teachers, fix salaries, etc.; section 9 ...	259
duty of board as to buildings, furniture, etc.; may levy a tax; building fund; section 10	259
shall levy tax "for teachers' fund;" section 11	259
assessment; how collected; section 12	260
election; tickets; how held; notice, published; section 13	260
members of board to serve without compensation; vacancy, how filled; section 14	260
president to have one vote; oath; duties; section 15.....	260
board shall hold stated meetings; quorum; section 16.....	261
body corporate; section 17	261
shall establish one or more schools for colored children; section 18	261
inconsistent laws void; section 19	261
INDEPENDENT SCHOOL DISTRICT OF POINT PLEASANT:	
if voters favor, additional territory will be added to independent school district of Point Pleasant; the boundaries; Lewis magisterial district to vote on question; section 1	226, 227
the tickets to be used; the result of election to be ascertained; section 2	228
there shall be a board of education; powers, etc.; additional members to be elected; who shall vote; term of office; how election officers shall be selected; section 3	228, 229
the district and the board of education to be governed by general law; section 4	230
what disposition shall be made of moneys unexpended when new district is formed; section 5	230
at first meeting after election the board shall appoint a secretary; his duties; section 6	230
board to ascertain what amount of money necessary; keep school in operation six months; levy a tax, which shall be collected by sheriff and accounted for; his commission; section 7...	230
board to appoint teachers; when; may remove teachers for; section 8	231

INDUSTRIAL SCHOOL FOR BOYS:	Page
name; location; male youth; managed; section 1	264
inmates—under eighteen, over ten years; who may be committed and for what; justice of the peace may commit; section 2..	264
inmates—males under eighteen years of age, convicted of crime, may be confined in industrial school; section 3	265
duty of justice of peace when committing a youth; section 4....	265
proceedings before justice; the youth shall be represented; may have a jury; appeal; section 5	265
Officers' and jurors' fees; section 6	266
how conveyed to the school; who shall not be lodged in jail; ex- penses, how paid; section 7	266
aiding, abetting to escape or violate rules; to give or sell fire- arms, intoxicating drinks, tobacco, etc., unlawful, penalty; who may arrest; escape from school; section 8	267
who may be returned to the court and sentenced to the peniten- tiary; section 9	267
amount to be paid by county court in state treasury; in what cases county is reimbursed; how; section 10	267, 268
list of inmates by counties; charging maintenance of inmates to county; money shall be applied; section 11	268
auditor shall certify list and statement to county court; duty of court; auditor may apply to circuit court; when; sec- tion 12	268
state board of control have authority to; expenses, how paid; sec- tion 13	269
Inconsistent acts repealed; section 14	269
 INHERITANCE AND TRANSFER TAX:	
(see tax on collateral inheritance)	165
 INSTITUTE INSTRUCTORS:	
appropriation for	24
 INSURANCE COMMISSIONER:	
power of; section 15e	133
 INSURANCE:	
life insurance companies doing business in this state shall not discriminate in favor of any individual of the same class. No insurance company shall pay or allow any rebate or any inducement which is not specified in the contract; penalties for violations; no person shall receive or accept any rebate, part of premium or commission; penalty for violation; in- surance commissioner to investigate any charges of rehat- ing; not to prohibit non-participating insurance from paying bonuses; section 15	128, 129, 130
misrepresentation and twisting; penalties for violation of pro- visions of this section; section 15-a	130, 131
testimony; no person shall be excused from testifying; sec- tion 15-b	131
solicitors; to whom and how licenses may be issued to solicitors; fee for license; license may be revoked; section 15-c	131, 132
agents' license, who can solicit applicants for policies; insurance commissioner's duty when agent violates insurance law; sec- tion 15-d	132, 133
powers of the insurance commissioner to refuse or revoke licenses; section 15-e	133
reduction of capital stock; section 15-f	134
dividends not to be paid until; section 15-g	134
re-insurance; not to be done until; section 15-h	134

	Page
INSURANCE—Continued.	
companies withdrawn: when subject to examination of West Virginia insurance department and its findings; section 15-l...	134
reserves; section 15-j	134
penalties; section 15-k	135
repealing conflicting acts; section 15-l	135
INSURANCE ON PUBLIC BUILDINGS:	
appropriation for	22
INVESTMENT COMPANIES, DOMESTIC:	
domestic investment company designated; section 1.....	115
statements and fee shall be filed in auditor's office; other papers also to be filed; section 2	115, 116
papers to be verified by oath; section 3	116
foreign investment companies to file written consent, etc.; section 4	116, 117
duty of the auditor; section 5	117, 118
not lawful for investment company except as provided, until; amendments to charter, etc., not in force until; section 6..	118
investment company may appoint agents—who shall register; fee; section 7	118, 119
statements verified by oath to be filed, when; filing fee; penalty; section 8	119
how accounts shall be kept; section 9	119
auditor shall have control over all investment companies; section 10	119
duty of auditor when investment company is impaired or fails to file papers, etc.; section 11	120
penalty for making false statement; section 12	120
penalty for attempting to sell without having complied with the provisions of this act, or aids in violation of this act; section 13	121
all fees collected by auditor: auditor authorized to appoint additional clerk; how paid; section 14	121
conflicting acts repealed; section 15	122
JANITOR:	
appropriation to pay salary of	3
JOINT HIGH SCHOOLS:	
(see schools, joint high)	225
JOURNALS AND BILLS OF LEGISLATURE:	
shall be mailed by secretary of state; section 1	179
members of each house may file list of names with clerk, etc.; section 2	179
secretary of state shall pay postage; section 3	179
providing for additional copies; S. J. R. No. 18	610
JUDGES OF CIRCUIT COURTS:	
appropriation to pay salaries of	3
county court authorized to pay additional compensation, when; section 1	221
JUDGES OF SUPREME COURT:	
appropriation to pay salaries of	3
JUDICIAL DEPARTMENT:	
appropriation for clerks, contingent and current expenses	13, 14

	Page
JUSTICE OF THE PEACE:	
shall sentence prisoners convicted, to labor on the public roads, when; section 1	202
may commit to the industrial school for boys; section 2	264
duty when committing a youth; section 4	265
shall appoint guardian <i>ad litem</i> for youth; section 5	265, 266
shall receive same fees as are allowed, etc., section 6	266
papers shall be sent to superintendent; youth shall remain in custody of the court, etc.; section 7	266
KANAWHA AND HOCKING COAL AND COKE COMPANY:	
appropriation to pay	31
KANAWHA REPAIR CO.:	
appropriation to pay	28
KEEPER OF ROLLS:	
appropriation to pay salary of	3
KEYSER CHARTER:	
the city of Keyser; powers defined; section 1	539, 540
corporate limits; section 2	541
election precincts; section 3	542
qualification of voters; section 4	543
registration of voters; section 5	543
municipal authorities; primary and general election; section 6	543 to 548
contested elections; section 7	548
council; section 8	548
citizens' committee; section 9	548
the mayor; section 10	549, 550
departments of city governments; salaries; section 11	551
meetings of council; section 12	551
improvements, ordinances and franchises; section 13	552
qualification of mayor and councilmen; section 14	552
oath of officers; section 15	552
general powers of council; section 16	552 to 561
municipal authority; section 17	561
assessment and collection of taxes; section 18	562
bonds; section 19	563
licenses; section 20	563
franchises; section 21	564, 565
mandamus; section 22	566
pavements and sidewalks; section 23	567
nuisances; section 24	567, 568, 569
lien for taxes, etc.; section 25	569, 570
health, health commissioner; section 26	570, 571, 572
ordinance, general provision; section 27	572
ordinance to be in writing and not changed, when; section 28 ..	572
ordinances and vetoes shall be recorded, etc; section 29	573
duties of city clerk; section 30	573 to 578
duties of the treasurer; section 31	578
duties of city attorney; section 32	579
police department; section 33	579
duties of the street commissioner; section 34	580
power to condemn; section 35	580
recall; section 36	580 to 583
initiative; section 37	583
referendum; section 38	584
petitions; section 39	585
election to adopt or reject charter; section 40	585
acts repealed; section 41	586

	Page
KINGS DAUGHTERS AND CITY HOSPITALS:	
appropriation for	6
LAW LIBRARY, STATE:	
(at capitol) appropriation for	8
(at Charles Town appropriation for	8
county court of Jefferson county to appoint a librarian at Charles	
Town; section 1	181
librarian shall give bond; section 2	182
salary of librarian	182
LEGISLATIVE EXPENSE, CONTINGENT:	
appropriation for	15, 16
LEWIS, MRS. VIRGIL A.:	
appropriation to pay	29
LIEUTENANT GOVERNOR:	
proposing an amendment to the constitution of the state, creating	
the office of lieutenant governor; S. J. R. No. 16	617, 618
LIBRARIAN:	
for law library at Charles Town; section 1	181
shall give bond; salary; section 2	182
LICENSE TAXES:	
rate of on real and personal property; section 62	251
LILLY, M. C. & COMPANY:	
appropriation to pay	30
LUNATICS IN JAIL:	
appropriation for support of	6
MAINTENANCE OF LAW AND ORDER:	
appropriation for	11, 45
MARSHALL COLLEGE:	
appropriation for	23
MARTINSBURG CHARTER AMENDED:	
boundaries; section 2	415 to 421
boundaries of wards; section 3	421 to 424
city may borrow money and assign liens acquired for paving and	
sewers; section 58	424
MELTON, W. S.:	
appropriation to pay	28
MEMBERS OF HOUSE OF DELEGATES:	
appropriation to pay per diem	36, 40
appropriation to pay mileage	36
MEMBERS OF SENATE:	
appropriation to pay per diem	38, 42
appropriation to pay mileage	39
MILITIA:	
appropriation for	10
appropriation to pay notes given to raise money to pay	45
MINERS' HOSPITALS:	
appropriations for numbers 1, 2 and 3	20, 21

INDEX TO THE ACTS.

xlix

	Page
MOORE, S. SPENCER & CO.:	
appropriation to pay	28
MORGAN LUMBER AND MANUFACTURING CO.:	
appropriation to pay	28
MCNEIL, N. C.:	
appropriation to pay	31
ODD FELLOWS' HALL ASSOCIATION:	
the Odd Fellows' hall association created a body politic; section 1	184
stockholders meeting to be held, where and purpose; section 2...	184
capital stock personal property; section 3	184
stockholders may name trustees; section 4	184, 185
trustees shall choose officers, make contracts, etc.; section 5	185
stockholder failing to pay subscription may have judgment taken against him; section 6	185
who are eligible as trustees; section 7	185
there shall not be less than five stockholders vote allowed in stockholders' meeting; section 8	185
leases, deeds, etc., may be executed; section 9	186
may at any time in general meeting resolve to discontinue the business; notice	186
OFFENSES AGAINST PROPERTY:	
male person over sixteen years of age convicted, may be sentenced to work on public roads; section 14-a-1	201
OFFICERS, COUNTY:	
allowances for public services shall be made by county court; section 49	176, 177, 178
OVERPAID TAXES:	
appropriation to refund	31
PANAMA PACIFIC EXPOSITION:	
appropriation for state building	27, 28
PARKERSBURG CHARTER AMENDED:	
council may cause streets or alleys to be paved; how done; when and how paid for; lien on property to secure payment; section 19	530 to 539
PATTERSON, JAMES A.:	
appropriation to pay	30
PAYNE, J. M.:	
appropriation to pay as assignee of George Byer	30
PIEDMONT CHARTER:	
the city of Piedmont; section 1	371
corporate limits; section 2	371, 372
municipal authorities; section 3	373
officers; section 4	373
corporate powers; section 5	373
body politic; section 6	373
power to re-survey; other duties defined; section 7	373 to 376
may adopt and enforce orders; section 8	376
qualification of voters; section 9	376
provide for registration of voters; section 10	376
elections; section 11	376

PIEDMONT CHARTER—Continued.		Page
election of mayor; term; section 12		377
eligibility for mayor; section 13		377
election of councilmen and recorder; term; section 14		377
eligibility for office; section 15		378
penalty of officer being interested personally in contracts; section 16		378
oath required of mayor; section 17		378
oath of officers; section 18		378
vacancy of mayor, how filled; section 19		379
term; when to fill vacancy; section 20		379
council, power to remove officers; section 21		379
officers may perform other duties; section 22		379
journal of proceedings; section 23		379
meetings of council; section 24		380
quorum; section 25		380
salaries; section 26		380
appointive officers; section 27		381
duties of mayor; section 28		381
duties of recorder; section 29		381
duties of auditor; section 30		382
additional duties of auditor; section 31		382
duties of city attorney; section 32		382
duties of police judge; section 33		383
style of ordinances; section 34		384
how ordinances are passed; section 35		384
ordinances shall be spread upon record and read at next meeting; section 36		384
franchises; section 37	384.	385
estimate of expenses and levy; section 38		385
when city license may be required; bond required; a city license tax may be required for; section 39		386
council control granting and revoking license; may prohibit, what; section 40		387
taxes, how collected; discount; other duties may be required of sergeant; section 41		388
property liable for taxes; section 42		389
lien on real estate for taxes; section 43		390
how liens may be enforced; section 44		390
money, how appropriated; section 45		390
sewers, paving and curbing; section 46		390
how paving contracted and paid for; section 47	391 to 393	393
sewers, how built and paid for; section 48	393 to 395,	395
liens for paving and sewers; section 49		395
how liens held against certain property; section 50		395
may borrow money; section 51		396
may bond city for; section 52		396
buildings for use of city; section 53		396
health, slaughter houses, etc.; section 54		397
council to regulate sale of cocaine and poisonous drugs, section 55		397
shall appoint health commissioner, when; section 56		397
police department; policemen, how selected; term; may be removed; not eligible to reappointment; section 57		398
fire department; section 58		398
concerning bribes; section 59		398
officer's term expires, when; valid ordinances; section 60		399
inconsistent acts repealed; section 61		399

INDEX TO THE ACTS.

li

	Page
POINT PLEASANT MONUMENT:	
appropriation for	19
board of trustees authorized to preserve, repair and improve monu- ment grounds and buildings; section 1	175
shall appoint treasurer who shall give bond; trustees to make re- port annually; section 2	175
PRESIDENT OF THE SENATE:	
together with the clerk authorized to purchase	44
PRINCETON CHARTER:	
the city of Princeton; section 1	507
corporate limits; section 2	507
boundaries of wards; section 3	508, 509
municipal authorities; section 4	509
exercise of corporate powers; section 5	509
subordinate officers; section 6	509
eligibility of officers; section 7	510
election of officers; section 8	510
who are voters; section 9	510
registration of voters; section 10	510
general election; section 11	511
tie vote, how decided; section 12	511
contested elections; section 13	511
vacancy in office; section 14	512
appointment of additional officers and defining their duties and fixing compensation for such officers; section 15	512
bond; section 16	513
oath of office; section 17	513
tenure of office; section 18	514
ineligibility or failure to qualify; section 19	514
powers and duty of mayor; section 20	514
powers and duty of recorder; section 21	515
quorum; section 22	515
record of minutes and ordinances; section 23	516
reading of minutes; section 24	516
who shall vote in council; section 25	516
meetings of council; section 26	516
to whom money of city shall be paid; section 27	517
duties and powers of council; section 28	517 to 521
mayor's docket; section 29	521
annual levy; section 30	522
annual assessment; section 31	522
lien for taxes; section 32	523
collection of taxes; section 33	524
additional duties of treasurer; section 34	525
license; section 35	526
condemnation of land for public use section 36	526
provision for bonding city; section 37	526
no indebtedness to be created for current expenses; section 38 ..	527
streets, roads and bridges; section 39	527
existing ordinances; section 40	527
power to make and maintain sidewalks, streets, etc.; section 41 ..	528
the duty of the council to appoint officers to hold elections here- under; section 42	528
duties of city attorney; section 43	528
where money to be deposited; section 44	529
salaries of various officers; section 45	529
repeal of inconsistent acts and ordinances; section 46	529

PRINTING, BINDING AND STATIONERY :		Page
appropriation for		11
how procured by officers and boards		34
PRINTING, ETC. FOR FREE SCHOOL DEPARTMENT :		
appropriation for		25
PRISONERS :		
(for convict labor on roads. see road building)	193 to 201	
prisoner convicted, shall be sentenced to work on road, when		202
prisoner under charge may work on public road, when		203 to 204
PROHIBITION :		
word liquors construed: section 1		96
manufacture, sale, etc., of liquors forever prohibited; except: section 2		97
penalty for violation; when a misdemeanor; when a felony; form of indictment deemed sufficient; section 3	97,	98
exceptions, druggist; physician; prescription; affidavit; penalty for giving to persons of intemperate habits; form of indictment against druggist; section 4	98.	99. 100
person of intemperate habits or other person use other than stated in affidavit; penalty; if physician of intemperate habits or without making examination, penalty; section 5.....		100. 101
persons assisting in maintaining club house, etc., where liquor is received or kept, sold, given away or divided; penalty; section 6		101
keeping or giving away; section 7	101,	102
advertise or give notice; penalty; section 8		102
justice of the peace, courts, and mayor shall issue warrant, when; section 9		102
probable cause; section 10	102,	103
when liquors are seized, <i>prima facie</i> shall be publicly destroyed;; section 11		103
officers may break open house, when; section 12		103
payment of United States tax <i>prima facie</i> evidence of guilt; section 13	103,	104
nuisance; who guilty; section 14		104
state tax commissioner <i>ex officio</i> state commissioner of prohibition; section 15		104
duty of commissioner; section 16	104,	105
suit in equity may be instituted; injunction granted, when; section 17		105
in addition to penalties, bond may be required; section 18		106
express and transportation companies, shall keep books and record names of persons to whom liquor is shipped; section 19 ...		106
who may employ attorney to assist in prosecution; section 20		106
rewards may be offered; when; section 21	106.	107
state right to appeal; section 22		107
police powers; section 23		107
sale by manufacturer and wholesale druggist under supervision of commissioner; section 24		107
section of inconsistent laws repealed; section 25		107
in effect, when; section 26		107
PROSECUTING ATTORNEY :		
duty as to hotel law; section 23		52
shall recognize attorney employed to assist in prosecution for violation of prohibition law; section 20		106
may offer rewards, when; section 21		106
assistant prosecuting attorney may be appointed; oath; may be re-		

PROSECUTING ATTORNEY—Continued.	Page
moved; compensation; who shall manage and control prosecutions; appointment to prosecute, when; employment by individuals to assist in prosecution; section 7	157, 158
duty of; section 49	178
duty of; section 5	125, 126
PUBLIC PRINTER :	
to print advanced copy of acts; H. J. R. No. 10	624, 625
PUBLIC SERVICE COMMISSION :	
appropriation for	3, 19
commission created; to be appointed by the governor; term; vacancy, how filled; may be removed; record to be kept by; qualification; organization; legal services; members prohibited from; may employ secretary and other employes; compensation and how paid; general office at capitol; office hours; hearings; section 1	53, 54, 55
may prescribe rules of procedure; section 2	55
jurisdiction shall extend and include; section 3	55
persons engaged in public service business required to establish and maintain adequate facilities for service in respect thereto; requirements, rates, etc.; section 4	55, 56
power given commission to investigate and change rates; order in force; section 5	56
rebating, etc., prohibited; section 6	56, 57
shall not give preference or advantage; section 7	57
common carriers shall afford facilities for interchange of traffic; trunk lines shall not discriminate; section 8	57
rates, fares, etc., shall not be changed, when; section 9	57, 58
commission has general supervision; may appoint inspectors; section 10	58, 59
complaints, how made to commission; section 11	59, 60
public service corporation shall file schedules open to public inspection; section 12	60
hearings by commission; aid of circuit court may be invoked; shall not excuse witness from testifying; section 13	60
commission shall collect information of value; section 14	61
a special license fee required of all public service corporations; appropriation to pay salaries, etc.; section 15	61
appeals may be taken to supreme court; proceedings; hearing shall have precedence; section 16	61, 62
penalty for violation of the provisions of this act; section 17	62
complaint for damage may be made to commission; section 18	62, 63
secretary shall keep record; seal shall be adopted; schedule of fees to be charged; fees where paid; section 19	63
free transportation to whom; reduced rates may be granted; free service in exchange; section 20	63
commission may require information; section 21	63, 64
conflicting acts repealed; section 22	64
the public service commission shall be a body politic; administer workmen's compensation fund; shall be governed by the provisions of this act; section 1	66
expenses of the administration of the fund, how paid; section 2	66
apportionment of salaries and expenses, when, etc.; all payments shall be made by state treasurer upon order or voucher; section 3	67
commission shall be in continuous session, except Sundays and legal	

PUBLIC SERVICE COMMISSION—Continued.	Page
holidays; sessions shall be public and record of proceedings kept; section 4	67
quorum; investigation before one member when deemed to be order of commission; section 5	67
office of commission shall be at seat of government; section 6	68
may employ secretary and other assistants; expenses of members and assistants to be paid from state treasury upon itemized account sworn to; section 7	68
commission shall adopt rules; section 8	68
who are employers; section 9	68
shall have the right to examine under oath; section 10	69
shall prepare blank reports for use; section 11	69
power to administer oaths; section 12	69
refusal or failure to comply; circuit judge may compel obedience; section 13	69
fee for serving process and of witnesses; section 14	69
may cause deposition of witnesses; section 15	70
copy, when received as evidence; section 16	70
commission shall furnish blank forms; section 17	70
classification of industries; section 18	70 to 74
shall establish workmen's fund; section 19	74
state treasurer custodian, etc.; section 20	74
treasurer shall give additional bond; section 21	74
employer, when not liable in damages; section 22	74
employer electing to pay premiums, shall post notices; no exemption by agreement; section 23	75
application of this act as between employer and employes; premiums shall be paid to treasurer; deduction; receipt; create a fund; section 24	75
disburse fund to whom; section 25	76
employers who shall elect not to pay into workmen's compensation fund, etc.; section 26	76
shall disburse and pay from fund for medical or other service not to exceed; section 27	76
when employe not entitled to receive any sum from workmen's compensation for injury; section 28	77
reasonable funeral expenses shall be paid; section 29	77
no benefit allowed for one week after injury, except; section 30	77
in case of temporary or partial disability, shall receive; section 31	77
in case of total disability; section 32	77
classification in case injury causes death; section 33	78
benefits in case of death to be paid to; section 34	79
benefits to be applied as directed by; section 35	79
no benefit to be paid to widow or widower living separate and apart; in event of suit, what; section 36	79
average weekly wage or earnings basis upon which to compute benefits; section 37	79
payments may be made in periodical installments; section 38	79
to entitle employe to compensation, application must be made in due form, etc.; section 39	79
power and jurisdiction over each case; section 40	80
may commute periodical benefits, when; section 41	80
benefits before payment exempt from claims of creditors; section 42	80
to hear and determine questions; claimant entitled to an appeal, when; proceedings to be had, costs, etc.; section 43	80
not bound by usual common law rules, etc.; section 44	81
expenditures to obtain statistical information; section 45	81

	Page
PUBLIC SERVICE COMMISSION—Continued.	
annually, report shall be made under oath; section 46	81
may sue in circuit court of Kanawha county; section 47	81
auditor shall issue warrant for disbursements, when; section 48	82
penalty for failure to make report or for making a false report;	
section 49	82
penalty for attempting to secure larger compensation or longer	
term than he is entitled to; section 50	82
when it is the duty of the board of public works to loan or invest	
money belonging to the workmen's compensation fund; sec-	
tion 51	82
the provisions of this act shall apply to employers and employes	
engaged in intrastate, interstate or foreign commerce, when	
and how; section 52	83
employer or employe adjudicated to be outside the scope of this	
act and an accounting with the justice of the case shall be	
had of moneys received; section 53	83
may insure in liability insurance company; section 54	83
if the provisions of this act shall be repealed or adjudged invalid,	
what shall not be computed; section 55	84
conflicting acts repealed; section 56	84
powers and duties of board of control as vested in it by chapter	
eleven of these acts, are vested in the public service com-	
mission, when; section 24	93
RAILROAD CONSOLIDATION. WHEN PROHIBITED:	
railroads prohibited from consolidating, leasing or becoming owner	
of a parallel line; section 1	124, 125
officers, agents or attorneys of one cannot serve as officer for a	
parallel or competing line; section 2	125
unlawful for railroad company to hold, own or control capital	
stock in competing line of railroad; section 2	125
penalty for violation of any of the provisions of this act; section 4	125
jurisdiction of the circuit courts; who may institute and prosecute	
suit; section 5.....	125, 126
RAILROAD COMPANIES:	
extending franchise and powers of railroad companies; section 1	126
inconsistent acts repealed; section 2	127
RATE MAKING:	
rate makers required to file with insurance commissioner a copy of	
agreement, etc.; subject to visitation; examiners may be ap-	
pointed; schedule of rates to be filed, when; shall not make	
discriminating rates; insurance commissioner may remove	
rates, when; record to be kept; this section not applicable	
to; section 1	135, 136, 137
penalty for failure to comply with provisions of this act; section 2	137
appropriation to carry out provisions of act; section 3	137
inconsistent acts repealed; section 4	137
REFUNDING COUNTY, DISTRICT AND MUNICIPAL TAXES:	
appropriation to pay	31
REGISTRATION:	
clerk of the county court shall notify registrars, and cause to be	
delivered to them books and blanks; registrars duty; clerk	
of county court shall furnish list of voters last taken; pro-	
vision in case of special election, etc.; section 3	169

REGISTRATION—Continued.	Page
when county court shall convene and register voters and strike off illegal voters; an order must be made in each case; appeal may be taken; penalty for improperly adding to or omitting from list; section 7	170
copy of registration to be furnished the commissioners of elections; clerks' fee for copy furnished by him; section 10	171
REFRINTING AND BINDING SUPREME COURT REPORTS:	
apropriation for	27
ROADS:	
county court shall ascertain condition of fiscal affairs; publish notice; lay levy; may lay additional levy for road purposes; section 2	189, 190, 191, 192
state road bureau established; consists of; section 1	193
governor shall appoint civil engineer as professor in charge of railway and highway department at the university; term; section 2	193
salary of chief road engineer and members of bureau; section 3 ...	193
duty of state road bureau; section 4	193
office and headquarters of chief road engineer; section 5	193
state road bureau shall organize and adopt rules; bureau under control of governor; section 6	193
bureau to have general supervision of all public roads; duty of the bureau; section 7	194
shall compile statistics, disseminate information, etc.; section 8	194
materials used upon public roads and bridges must be approved by chief road engineer; section 9	195
duty of chief road engineer; section 10	195
shall select assistants, how; compensation; section 11	195
how prison labor may be secured by county; section 12	195
county court having decided to construct roads in accordance with plans may apply to state board of control to send convicts to such county to work on the roads, how; section 13	196
board of control and assistant warden of penitentiary may designate prisoners to work; section 14	196
contract to be in writing; section 15	197
annual report of state road bureau; section 16	197
county road engineers shall visit office of state road bureau; expenses, how paid; section 17	197
authority of state road bureau to establish and maintain stone quarries, etc.; section 18	197
prison force to be guarded while working on road; number; compensation, etc.; section 19	198
warden to provide quarters for convict labor; section 20	198
convicts forming state road force to be transferred; how expenses shall be paid; section 21	198
prison road force shall work under direction of chief engineer; any other question arising shall be decided by governor; section 22	198
convicts to be provided for by warden; section 23	199
sick prisoner provided for; section 24	199
county court desiring to obtain convict labor shall agree to supply material, etc.; section 25	199
as to contract between state and persons for employment of convict labor; section 26	199
how contract may be made by local road authorities to secure convict labor; section 27	199
if convict escape, punishment; section 28	200

	Page
ROADS—Continued.	
warden may discharge convicts when term shall have expired; section 29	200
construction as to giving county aid; section 30	200
governor to designate physician to inspect camp; duty of physician; section 31	200
authority conferred, and duties to be performed by chief engineer; section 32	200
no tolls shall be charged; section 33	201
conflicting acts repealed; section 34	201
male person over sixteen years convicted, may be sentenced to work on public roads; section 14-a-1	201
justice of the peace authorized to sentence male persons over sixteen, convicted, to work on roads; penalty if escape and recaptured; sheriff to employ guards; how paid; deduction of sentence for faithful work; section 1	202
person charged with misdemeanor and unable to give recognizance, or is refused bail, may elect to labor on roads; court may enter order; if convicted what to be done; sheriff to employ guard; faithful service; section 1	203, 204
county court may appropriate to the several district funds, to be subject to the order of the road engineer drawn on the sheriff; forms of order; reports to be made in writing; duty of county clerk; section 1	205, 206, 207
RULES, JOINT:	
joint rules of senate and house of delegates; H. C. R. No. 5	623
RUMSEYAN SOCIETY INC.:	
appropriation for	15
SALARIES OF CLERKS:	
appropriation for	16, 17
SAN JOSE SCALE:	
(see crop pest commission.)	108
SCHOOLS, JOINT HIGH:	
board of education of two or more contiguous districts may submit question of a joint high school to the voters in the territory; how to determine location; control and management; authority conferred on board of education; section 30½	225
SECOND HOSPITAL FOR INSANE:	
appropriation for	20
SECRETARY OF STATE:	
appropriation to pay salary	2
appropriation for clerks, etc.	16
appropriation for postage on journals and bills	17, 18
appropriation for expenses in distributing acts	18
appropriation for assistant superintendent of printing	18
appropriation for contingent expenses	18
a member of board of public works	175
shall mail journals and bills of legislature to; section 1	179
prepay postage	179
SEMI-CENTENNIAL OF FORMATION OF WEST VIRGINIA:	
appropriation for	19
SHEPHERD COLLEGE:	
appropriation for	21

	Page
SHERIFF:	
deputy; appointment	173, 174
allowed extension of time to collect taxes; section 14-a-1	180
duties as to school funds; collection, disbursements and settle- ments	232 to 236
may employ guards, when	203, 204
SISTERSVILLE CHARTER AMENDED:	
mode of voting; manner of holding election; corporation authori- ties' duty; penalties; section 11	485
STATE AGENTS:	
appropriation for	27
STATE BOARD OF CONTROL:	
appropriation to pay salary of members	3
to be expended at the discretion of	10, 14, 20
shall pay into treasury all money received, when	23
appropriation for	18
appropriation for benefit of Charles W. Campbell	29
to prescribe form of vouchers for crop pest commission; section 14	114
to receive and file application for convict labor on roads; section 13	196
shall assist in determining number of convicts may be assigned to work; section 14	196
to enter into contract, when; section 15	197
authorized to sell Fairmont normal school property; section 1 ...	250
shall have authority to grant parole an inmate of the industrial school, when and how; section 13	269
STATE BOARD OF HEALTH:	
state board of health; who to be appointed; term; vacancies; section 1	159
president and secretary; board to be a corporation; seal; powers. rules and by-laws; quorum; meeting; section 3	160
duties of secretary; section 4	161
duties of board; section 5	161, 162
appointment of county health officer, his duties and salary; county boards of health; penalty for failure in duty; section 6 ...	162, 163
duty of county or municipal health officer; expense; section 7a ...	163
salary of secretary; pay of members; section 16	164
sale of unwholesome drugs or provision; section 19	164
duty of board when reason to believe unwholesome provisions or drugs are offered for sale; cost of such investigation; sec- tion 19a	164
appropriation for state board; section 21a	165
inconsistent acts repealed	—
authorized to establish rules and regulations as to common drink- ing cup; section 1	158
STATE BOARD OF REGENTS:	
appropriation to pay salary of members of	3
appropriation for	18
duties to be prescribed by, road building; section 2	193
duties required of road engineer by; section 3	193
STATE CROP PEST COMMISSION:	
(see crop pest commission)	108
STATE COMMISSIONER OF PROHIBITION:	
the state tax commissioner shall be; section 15.....	104

STATE GEOLOGICAL AND ECONOMIC SURVEY:	
appropriation for	10
STATE HISTORIAN AND ARCHIVIST:	
appropriation to pay salary of	2
STATE LIBRARIAN:	
appropriation to pay salary of	2
STATE SUPERINTENDENT OF FREE SCHOOLS:	
appropriation to pay salary of	2
member of board of public works	175
salary fixed; section 1	182
STATE TAX COMMISSIONER:	
appropriation to pay salary of	2
appropriation for	14
<i>ex officio</i> state commissioner of prohibition; section 15	104
duty as commissioner of prohibition; sections 16, 17	104, 105
duty as to inheritance, etc.; sections 14, 16	167, 168
STATE TREASURER:	
appropriation to pay salary of	2
appropriation to pay clerks, etc.	14
appropriation to pay contingent expenses	17
payments shall be made by; (workmen's compensation fund); section 3	67
shall be paid out of the state treasury; section 7	68
shall be custodian of workmen's compensation fund; section 20 ..	74
shall give separate and additional bond; section 21	74
shall issue receipt for sums paid him; section 24	75
a member of board of public works	175
salary fixed; section 1	182
STORER COLLEGE:	
appropriation for	6
SUPPLEMENTAL AID FOR SCHOOLS:	
appropriation for	25
SUPREME COURT OF APPEALS:	
appropriation to pay salaries of judges	3
appropriation to pay mileage of judges	13
appropriation for contingent expenses	13
appropriation for clerks and other expenses	14
appeal from public service commission, time shall be fixed for hearing, etc.; bond may be required; the hearing shall take precedence; section 16	61, 62
shall have control of manner of hearing and the submission of cases; shall make and publish rules; section 20	217
SURVEYOR:	
may appoint deputy; section 11	175
TAXATION:	
maximum rate limited	188
rate of on real and personal property; section 62	251
TAXES:	
appropriation to refund	31
appropriation to refund overpaid	31
delinquent shall be credited	32

TAXES— <i>Continued.</i>	Page
time for collection extended; section 14-a-1	180
maximum rate limited	188
rate of on real and personal property; section 62	251
TAX ON COLLATERAL INHERITANCES:	
transfers of personal property, when not taxed; taxation of property of non-residents; when transfer of property shall not be legal until; section 6	165, 166
taxes upon transfer and interest that may accrue shall remain a charge and lien upon the property, superior to such other liens; executors, etc., liable when; section 7	166, 167
when tax is payable; section 9	167
tax commissioner ascertain as to transfer of property, and his duty; section 14	167
appraisers; how appolated if clerk of county court fail or refuse to do so; section 16	168
conflicting acts repealed; section 17	168
TEACHERS' CERTIFICATES:	
duration and renewal	262
THOMPSON, D. G.:	
appropriation to pay	30
UNDERWOOD TYPEWRITER COMPANY:	
appropriation to pay	31
UNIFORM EXAMINATIONS:	
appropriation for	26
UNITED STATES SENATORS:	
amendment to constitution of the United States providing for the election of senators by the people, ratified and approved; H. J. R. No. 2	608
UNIVERSITY:	
(see West Virginia university)	
USES FOR WHICH PRIVATE PROPERTY MAY BE TAKEN:	
public uses for which private property may be taken; section 2	95
VIRGINIA DEBT:	
appropriation for commission	19
commission created; C. C. Sub. for H. Sub. for S. J. R. No. 5	622
WARDEN OF PENITENTIARY:	
to assist board of control to determine number of convicts available for work on roads; section 14	196
to detail guards for state prison road force; section 19	198
shall provide suitable quarters; section 20	198
force to be transferred under direction of; section 21	198
shall provide for state prison road force; section 23	199
to supervise upon construction work; section 27	100, 200
shall have power to discharge; section 29	200
copy of report to be furnished to; section 31	200
WARNE, H. RUS:	
appropriation to pay	31
WAYNE COUNTY:	
county court may lay special levy for	224

INDEX TO THE ACTS.

lxi

	Page
WEAVER & ZEVERLY:	
appropriation to pay	29
WEST LIBERTY NORMAL SCHOOL:	
appropriation for	21
WESTON CHARTER AMENDED:	
the city of Weston; section 1	587
corporate limits or boundary; section 2.....	588
divided into four wards; section 3	589
council may change ward; section 3a	589
municipal authorities; section 4	589
council exercise corporate powers; section 5	590
eligibility of elective officers; section 6	590
term of city attorney, chief of police, city clerk, and street commissioner; section 7	590
election and term of office; section 8	590
election and term of councilmen; section 9	590
voting place; section 10	590
who entitled to vote; section 11	590
manner of voting; section 12	591
tie vote, how decided; section 13	591
contested elections; section 14	591
vacancy, how filled; section 15	591
council may provide for additional officers; section 16	591
bond and oath of officers; section 17	592
ineligibility or failure to qualify; section 18	592
when officers shall enter upon duties of office; section 19	593
duties of mayor; section 20	593
duties of clerk; section 21	594
council to designate councilman to act as mayor, when; section 21a	594
quorum; section 22	595
records to be kept by clerk; section 23	595
proceedings of council meeting to be read, signed and countersigned; ayes and noes may be taken; section 24	595
mayor's vote; section 25	595
place and time of meeting of council; section 26	595
city money to be paid to treasurer; section 27	595
council may authorize special tax; section 28	596
no debt to be contracted, except; section 29	596
powers of council in general; section 30	596 to 598
council shall have authority to pass all ordinances; shall order elections for bonding city, when; license for sale of liquors; section 31	598 to 600
authority as to licenses; section 32	600
franchise; section 33	600, 601, 602
proceedings to increase corporate limits; section 33a	602
duty of council as to result of vote taken to extend corporate limits; section 34	603
docket; book; section 35	603
board of health; section 36	603
duty of council as to what may become lawfully chargeable against city; levy; section 36a	604
duty of clerk as assessor; section 37	604
lien on real estate for taxes thereon; section 38	605
duty of city collector; section 39	605
prescribe which licenses shall be applied for and granted; section 40	606
state law as to licenses; section 41.....	606
licenses for keeping dogs expire; section 42	606

	Page
WESTON CHARTER AMENDED—Continued.	
council may institute proceedings for condemnation; section 43	606
election officers, how appointed; section 44	606
city succeeds to rights and powers; section 45	606
inconsistent acts repealed; section 46	607
WEST PUBLISHING COMPANY:	
appropriation to pay	30
WEST VIRGINIA AGRICULTURAL EXPERIMENT STATION:	
appropriation for	6, 7
WEST VIRGINIA ASYLUM, (AT HUNTINGTON):	
appropriation for	20
WEST VIRGINIA CHILDREN'S HOME:	
appropriation for	9, 10
WEST VIRGINIA COLORED INSTITUTE:	
appropriations for	22
WEST VIRGINIA COLORED ORPHANS' HOME:	
appropriation for	14, 15
WEST VIRGINIA HOSPITAL FOR INSANE:	
appropriation for	20
WEST VIRGINIA INDUSTRIAL HOME FOR GIRLS:	
appropriation for	21
WEST VIRGINIA REFORM SCHOOL:	
appropriation for	21
(see industrial school for boys)	264
WEST VIRGINIA SCHOOLS FOR THE DEAF AND BLIND:	
appropriation for	22
WEST VIRGINIA HORTICULTURAL SOCIETY:	
appropriation for	7
WEST VIRGINIA UNIVERSITY:	
appropriations for	22
departments of university; conditions for graduating; degrees;	
diploma; agriculture: extension schools; demonstrations at	
fairs, institutes, boys and girls clubs; section 172	270
(Keyser preparatory branch) appropriations for	22
(Montgomery preparatory branch) appropriations for	22
WHEATLEY, KATHERINE deB.:	
appropriation to pay	30
WHEELING CHARTER:	
boundaries and powers; section 1	286
estate, real and personal, conveyed to city; section 2	287
voting qualifications; section 3	287
elections; section 4	287
governed by mayor and four commissioners; terms; vacancy, how	
filled; nomination and elections; eligible; section 5	288
municipal primary; nomination forms; petition accompanying nom-	
inating statement; official primary ballot; proceedings of elec-	
tion; section 6	289 to 292
commissioners' duties and powers; section 7	292
powers; section 8	292

WHEELING CHARTER—Continued.	Page
levy taxes; make all contracts; section 8a	293
departments; section 9	293
mayor, authority and duty; other officers; duty; section 10	293
subordinate officers; section 11	294
restrictions on officers; section 12	295
salaries and meetings; section 13	296
meetings of commission; section 14	296
annual audits; section 15	296
removal of officers; special recall election; incumbent may succeed himself; section 16	297, 298
initiative and referendum features; commission's initiative; section 17	299
stay of ordinance; section 18	300
only legal voters can petition; section 19	301
commission, custody and powers; section 20	301
franchise restrictions; section 21	301 to 303
further franchise provisions; section 22	303
will vacate franchise; section 23	303
private switch grants; section 24	303
for public inspection; section 25	304
general ordinance powers; section 26	304
weighing or measuring; section 27	305
may by ordinance purchase toll bridges; section 28	305
may provide ordinance for inspection of food; section 29	305
compel abatement or removal of nuisance; other powers; section 30	305
may establish landings, etc.; section 31	306
regulate building of bridges, etc.; section 32	306
establish markets, etc.; section 33	306
to fill or drain; section 34	307
provide against robbery; prohibit children running at large, etc.; section 35	307
regulation of licenses; section 36	307
regulate theatrical and public shows; section 37	308
license owners of horses, hack, etc.; section 38	308
unlawful to tell fortunes; section 39	308
auction; section 40	308
hotels, taverns, etc.; section 41	308
brokers; section 42	309
license for any business; section 43	309
penalty for not having license; section 44	309
public extension powers; section 45	309
may have work done; section 46	310
may take private property for; section 47	310
new city conditions; section 48	310
street improvements; section 49	311, 312
shall pave when asked; section 49a	313
sidewalk improvements; section 50	313
building regulations; section 51	314
may establish system; section 52	314
power to enact laws; section 53	315
police court; section 54	315
jurisdiction of court; section 55	315
recovery of fine, how; section 56	316
power to commit to await action of grand jury; section 57	316
session of court, time and place; section 58	316
power to enforce its orders, etc.; section 59	316

WHEELING CHARTER—Continued.	Page
authority of clerk; section 60	317
docket, etc., to be provided; section 61	317
power of court as judgment. etc.; section 62	317
when an appeal shall lie; section 63	317
city prison; section 64	318
qualification of officers; section 65	318
mayor and commissioners shall give bond; amount; conditions; section 66	318
commission may investigate charges against officers; may remove if; section 67	319
taxation and finance; section 68	319
levy and collect taxes; section 69	319
fiscal year; section 70	319
property subject to taxation; section 71	319
may levy capitation tax; section 72	319
assessor shall furnish transcript of assessments; his fee; sec- tion 73	319
shall cause to be raised general tax on all taxable property; sec- tion 74	320
taxes due November first each year; section 75	320
may distress for taxes, when; section 76	320
taxes due, a lien on real estate; section 77	321
water rates shall be distrained for, when; section 78	321
amounts due the city may be recovered by suit; section 79	321
what orders shall not be issued for; section 80	321
debts; section 81	322
act of legislature applicable as to issuance of bonds; section 82	322
deposit of city funds; section 83	322
copies shall be printed; section 84	323
legal acts not to be invalidated by; section 85	323
ward boundaries, etc.; section 86	323
all fees shall divert into treasury; section 87	324
penalty for violation of the provisions of this charter; section 88	324
this act effective, when; section 89	324
duty of mayor, council and auditor when this charter takes effect; section 90	324
inconsistent acts repealed; section 91	324
 WHEELING CHARTER, AMENDED:	
council shall control streets, alleys, etc.; inconsistent acts repeal- ed; section 94	607, 608
 WOODALL, A. W.:	
appropriation to pay	29
 WORKMAN'S COMPENSATION FUND:	
the public service commission shall act as body politic; administer workmen's compensation fund; shall be governed by this act; section 1	66
expenses of the administration of the fund, how paid; section 2	60, 67
the apportionment of salaries and expenses; all payments to be made by state treasurer; section 3	67
commission shall be in continuous session, except Sundays and holidays; all proceedings shall be recorded and be a public record; section 4	67
a quorum; investigation before any one member when deemed to be the order of commission; section 5	67, 68
office of commission to be at seat of government; section 6	68
may employ secretary and other assistants; expenses of members	

WORKMAN'S COMPENSATION FUND—Continued.	Page
of commission and assistants to be paid from state treasury upon itemized account sworn to; section 7	68
commission shall adopt rules to govern its procedure; section 8 ..	68
who are employers within the meaning of this act; section 9	68, 69
employer shall furnish information to commission; section 10 ...	69
employer subject to this act shall notify the commission; section 11	69
shall have power to administer oaths, etc.; section 12	69
refusal or failure to comply or testify; circuit judge may compel obedience; section 13	69
fee for serving process and of witnesses; section 14	69, 70
may cause deposition of witnesses; section 15	70
a transcribed copy, when it may be received as evidence; section 16	70
commissioner shall furnish free of cost blank forms; section 17 ...	70
classification of industries; section 18	70, 71, 72, 73, 74
shall establish workmen's fund for the benefit of employes of employers that have paid premiums; section 19	74
state treasurer custodian of workmen's compensation fund; how disbursed; section 20	74
treasurer shall give additional bond; section 21	74
employer who shall elect to pay into workmen's compensation fund the premiums, not liable to respond in damages, provided, etc.; section 22	74
each employer electing to pay the premiums shall post notices stating the fact; no employer or employe shall exempt himself by an agreement; section 23	75
the application of this act as between employer and employes shall date from October 1, 1913; premiums shall be paid to the treasurer; deduction to be made by employer; receipt to be given by employer and treasurer; to create a fund available October 1, 1913; section 24	75, 76
commission shall disburse fund, to whom; section 25	76
employers who shall not elect to pay into workmen's compensation fund, or be in default in the payment shall be liable to their employes; defense of fellow servant rule, etc., shall not avail; section 26	76
shall disburse and pay from the fund for medical, nurse or hospital service not to exceed; section 27	76, 77
no employe shall be entitled to receive any sum from workmen's compensation fund for injury or death self inflicted, by misconduct or intoxication; if death or injury result to employe from deliberate intention of employer, dependent may take under this act and have cause of action; section 28...	77
reasonable funeral expenses shall be paid; section 29	77
no benefit allowed for one week after injury, except; section 30 ..	77
in case of temporary or partial disability, shall receive; section 31	77
in case of total disability; section 32	77
classification in case injury causes death; section 33	78, 79
benefits in case of death to be paid to; section 34	79
benefits to be applied as directed by commission; section 35	79
no benefit to be paid to widow or widower living separate and apart; in event of suit what to be done; section 36	79
the average weekly wage or earnings shall be taken as basis upon which to compute benefits; section 37	79
payments may be made in periodical installments; section 38 ...	79, 80
to entitle employe to compensation application must be made in due form within six months from date of injury or death; no person excluded as a dependent by reason of; section 39	80
power and jurisdiction of commission over each case; section 40 ..	80

WORKMAN'S COMPENSATION FUND-- <i>Continued.</i>	Page
commission may commute periodical benefits, when; section 41 ...	80
benefits before payment exempt from claims of creditors; section 42	80
commission to hear and determine questions within its jurisdiction; claimant entitled to an appeal when; proceeding to be had, costs, etc.; section 43	80
commission not bound by usual common law rules, etc.; section 44	81
expenditures to obtain statistical information, etc.; section 45 ...	81
annually, report shall be made under oath of at least two members to the governor, which shall include, etc.; section 46	81
commission may sue in the circuit court of Kanawha county, etc.; section 47	81
auditor shall issue warrant for any disbursements, when; section 48	82
penalty for failure of person or firm to make report, or for making false report; section 49	82
penalty for attempting to secure larger compensation or longer term than he is entitled to; section 50	82
when it is the duty of the board of public works to loan or invest money belonging to workmen's compensation fund; section 51	82
the provisions of this act shall apply to employers and employes engaged in intrastate, interstate or foreign commerce, when and how; section 52	83
employer or employe adjudicated to be outside the scope of this act, an accounting with the justice of the case shall be had of moneys received; section 53	83
may insure in any liability insurance company or companies; section 54	83
if the provisions of this act shall be repealed or adjudged invalid, what shall not be computed; section 55	84
conflicting acts repealed; section 56	84