

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

REGULAR SESSION
1923





JARRETT PRINTING COMPANY

1923.

WEST VIRGINIA LEGISLATURE

STATE SENATORS

Officers

HON. HARRY G. SHAFFER.....President
 JOHN T. HARRIS.....Clerk
 M. C. KINDLEBERGER.....Sergeant-at-Arms
 J. P. STEWART.....Doorkeeper

DISTRICT	MEMBERS	POSTOFFICE
First.....	J. Ness Porter (R)..... (*)Wright Hugus (R).....	Newell Wheeling
Second.....	T. P. Hill (R)..... (*)George N. Yoho (D).....	Middlebourne Cameron
Third.....	James D. Dinsmoor (R)..... (*)Harvey Marsh (R).....	St. Marys Parkersburg
Fourth.....	(†)R. P. Shinn (R)..... (*)John M. Baker (R).....	Ripley Spencer
Fifth.....	Philip Hager (R)..... (*)Harry H. Darnall (D).....	Hamlin Huntington
Sixth.....	Wm. J. McClaren (R)..... (*)M. Z. White (R).....	Welch Williamson
Seventh.....	C. C. Coalter (R)..... (*)John Kee (D).....	Hinton Bluefield
Eighth.....	Harry G. Shaffer (R)..... (*)Clyde B. Johnson (D).....	Madison Charleston
Ninth.....	Robert H. Boone (R)..... (*)H. O. Boley (D).....	Ronceverte Lookout
Tenth.....	(*)R. F. Kidd (D)..... (*)A. C. Herold (D).....	Glenville Sutton
Eleventh.....	George W. Bowers (R)..... (*)F. S. Suddarth (D).....	Mannington Grafton
Twelfth.....	George E. White (R)..... (*)Chas. G. Coffman (R).....	Weston Clarksburg
Thirteenth.....	Gohen C. Arnold (R)..... (*)Hugh S. Byrer (D).....	Buckhannon Philippi
Fourteen.....	A. L. Helnick (R)..... (*)E. B. Reynolds (R).....	Thomas Keyser
Fifteen.....	H. P. Henshaw (D)..... (*)P. E. Nixon (D).....	Bunker Hill Paw Paw

19 Republicans

11 Democrats

(*)Denotes holdovers

(†) Died during session

Standing Committees of the Senate

ON PRIVILEGES AND ELECTIONS.

Messrs. Marsh (*Chairman*), Baker, Coalter, Helmick, Shinn, White (of Mingo), Nixon, Suddarth and Yoho.

ON THE JUDICIARY.

Messrs. Coffman (*Chairman*), Baker, Bowers, Shinn, Hill, Hugus, Marsh, White (of Lewis), Reynolds, Byrer, Darnall, Johnson and Kidd.

ON FINANCE.

Messrs. Arnold (*Chairman*), Boone, Dinsmoor, Hager, Helmick, McClaren, Porter, Coalter, White (of Lewis), White (of Mingo), Henshaw, Herold, Kee, Suddarth and Yoho.

ON EDUCATION.

Messrs. Hill (*Chairman*), Bowers, Hugus, Marsh, Reynolds, Shinn, Byrer, Darnall and Suddarth.

ON COUNTIES AND MUNICIPAL CORPORATIONS.

Messrs. White (of Lewis) (*Chairman*), Coalter, Dinsmoor, Hager, Helmick, McClaren, Boley, Johnson and Kee.

ON ROADS AND NAVIGATION.

Messrs. McCaren (*Chairman*), Arnold, Bowers, Dinsmoor, Hager, Marsh, Porter, Reynolds, Shinn, White (of Lewis), Boley, Kidd, Nixon, Kee and Yoho.

ON BANKS AND CORPORATIONS.

Messrs. Hager (*Chairman*), Baker, Bowers, Dinsmoor, Hugus, White (of Mingo), Boley, Herold and Nixon.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.

Messrs. Coalter (*Chairman*), Arnold, Baker, Hager, Helmick, Hill, White (of Lewis), White (of Mingo), Boley, Darnall and Johnson.

ON PENITENTIARY.

Messrs. White (of Mingo), (*Chairman*), Coffman, Helmick, Hill, Marsh, Porter, Darnall, Kidd and Yoho.

ON RAILROADS.

Messrs. Helmick (*Chairman*), Boone, Coalter, Coffman, Dinsmoor, Hugus, Henshaw, Johnson and Suddarth.

ON MILITIA

Messrs. Hugus (*Chairman*), Arnold, Baker, Hill, Reynolds, White (of Lewis), Herold, Kidd and Nixon.

ON FEDERAL RELATIONS.

Messrs. Bowers (*Chairman*), Baker, Reynolds, Porter, Marsh, Kidd, Kee, Darnall and Byrer.

ON INSURANCE.

Messrs. Porter (*Chairman*), Hager, McClaren, Helmick, Coalter, White (of Lewis), Yoho, Henshaw and Johnson.

ON IMMIGRATION AND AGRICULTURE.

Messrs. Reynolds (*Chairman*), Bowers, Shinn, Hager, Dinsmoor, Boone, Yoho, Herold and Henshaw.

ON MINES AND MINING.

Messrs. White (of Mingo) (*Chairman*), Helmick, Boone, Coalter, McClaren, Hager, Nixon, Byrer and Boley.

ON MEDICINE AND SANITATION.

Messrs. Bowers (*Chairman*), Porter, Hill, Helmick, Coffman, Arnold, Suddarth, Kidd and Darnall.

ON LABOR.

Messrs. Dinsmoor (*Chairman*), White (of Lewis), McClaren, Hugus, Helmick, Arnold, Byrer, Herold and Henshaw.

ON CLAIMS AND GRIEVANCES.

Messrs. Boone (*Chairman*), White (of Mingo), Hill, Coffman, Bowers, Baker, Kidd, Kee and Nixon.

ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Baker (*Chairman*), White (of Mingo), Porter, Marsh, Coalter, Kee, Darnall and Byrer.

ON PUBLIC PRINTING.

Messrs. Hill (*Chairman*), Hugus, Helmick, Dinsmoor, Coffman, Arnold, Suddarth, Nixon and Boley.

ON RULES.

Messrs. Shaffer (*Chairman*), White (of Mingo), White (of Lewis), Hill, Bowers and Johnson.

ON PUBLIC LIBRARY.

Messrs. Porter (*Chairman*), Shinn, McClaren, Marsh, Hill, Hager, Boley, Henshaw and Kee.

TO EXAMINE THE CLERK'S OFFICE.

Messrs. Hager (*Chairman*), White (of Lewis), Shinn, Marsh, Bowers, Arnold, Nixon, Byrer and Boley.

ON PROHIBITION AND TEMPERANCE.

Messrs. Shinn (*Chairman*), Reynolds, Marsh, Hill, Hager, Coffman, Nixon, Yoho and Boley.

ON FORESTRY AND CONSERVATION.

Messrs. Coalter (*Chairman*), Shinn, Reynolds, Porter, McClaren, Dinsmoor, Boone, Johnson, Herold, Henshaw and Byrer.

ON VIRGINIA DEBT.

Messrs. Boone (*Chairman*), White (of Lewis), Reynolds, McClaren, Hugus, Baker, Arnold, Darnall, Herold, Kee and Kidd.

ON RE-DISTRICTING.

Messrs. Shinn (*Chairman*), Boone, Bowers, Coffman, Dinsmoor, Porter, Byrer, Henshaw and Kee..

JOINT COMMITTEE ON PASSED BILLS, ON THE PART OF THE SENATE.

Messrs. Hugus (*Chairman*), Reynolds, Hager, Darnall and Herold.

JOINT COMMITTEE ON PRINTING BILLS, ON THE PART OF THE SENATE

Messrs. White (of Lewis) (*Chairman*), Hugus, White (of Mingo), Johnson and Suddarth.

HOUSE OF DELEGATES

Officers

HON. W. E. R. BYRNE.....Speaker
 ROBERT L. HAMILTON.....Clerk
 W. A. RIFFE.....Sergeant-at-Arms
 W. R. COMBS.....Doorkeeper

COUNTY	MEMBERS	POSTOFFICE
Barbour.....	Thurman Paugh (D).....	Philippi
Berkeley.....	H. Lott Smith (R).....	Martinsburg
	James S. Dailey (R).....	Martinsburg
Boone.....	Irving Sutphin (D).....	Seth
Braxton.....	L. T. Harvey (D).....	Frametown
	John D. Sutton (D).....	Sutton
Brooke.....	A. S. Craig (D).....	Follansbee
Cabell.....	G. I. Armstrong (D).....	Huntington
	R. Page Aleshire (D).....	Huntington
	George G. Neal (D).....	Huntington
	T. S. Scanlon (D).....	Huntington
Calhoun.....	Bee Hopkins (D).....	Minnora
Clay.....	D. H. Stephenson (D).....	Odesa
Doddridge.....	Ira E. Smith (R).....	West Union
Fayette.....	Owen W. Cox (D).....	Laurel Creek
	R. S. Garvin (D).....	Mt. Hope
	C. Lance Marshall (D).....	Carbondale
	E. T. Wingrove (D).....	Long Branch
Gilmer.....	F. M. Wilson (D).....	Normantown
Grant.....	J. L. Rexroad (R).....	Lehmansville
Greenbrier.....	J. B. Sydenstricker (D).....	Lewisburg
	W. W. Stevens (D).....	Alderson
Hampshire.....	J. S. Zimmerman (D).....	Romney
Hancock.....	R. M. Brown (R).....	New Cumberland
Hardy.....	P. D. Delawder (D).....	Lost River
Harrison.....	Charles W. Davison (D).....	Lost Creek
	Ray W. Garvin (D).....	Clarksburg
	John Patton (D).....	Clarksburg
	Edgar E. Righter (D).....	Shinston
Jackson.....	S. K. Somerville (R).....	Ravenswood
	Eugene Slaughter (R).....	Cottageville
Jefferson.....	J. Strider Moler (D).....	Shepherdstown
Kanawha.....	John C. Blackwood (D).....	Sattes
	W. E. R. Byrne (D).....	Charleston
	Mrs. Tom Gates (D).....	Charleston
	Roy C. Goff (D).....	Charleston
	Howard Kuhn (D).....	Charleston
	W. A. Miller (D).....	Marnet
Lewis.....	John W. Smith (R).....	Weston
Lincoln.....	M. D. Goode (D).....	Griffithsville
Logan.....	Charles L. Eatop (D).....	Logan
Marion.....	H. T. Jones (D).....	Fairmont
	H. L. Cielland (D).....	Fairmont
	Smith Hood, Jr. (D).....	Rivesville
Marshall.....	George W. Byrnes (R).....	Moundsville
	Everett E. Moore (R).....	Moundsville
Mason.....	William H. Vaught (D).....	Point Pleasant
	Pat M. Wilson (D).....	Beech Hill

MEMBERS OF HOUSE OF DELEGATES

COUNTY	MEMBERS	POSTOFFICE
Mercer.....	J. A. Douglas Bailey (D).....	Bluefield
	C. C. Brammer (D).....	Matoaka
	Samuel R. Holroyd (D).....	Athens
Mineral.....	Wm. Farris (R).....	Ridgeley
Mingo.....	John S. Hall (D).....	Williamson
Monongalia.....	F. Guy Ash (D).....	Morgantown
	Dennis M. Willis (R).....	Morgantown
Monroe.....	James R. Pence (D).....	Union
Morgan.....	J. A. Proctor (D).....	Berkeley Springs
McDowell.....	Jas. A. Strother (R).....	Welch
	McGinnis Hatfield (R).....	Welch
	W. E. Eubank (R).....	Welch
	H. J. Capehart (R).....	Welch
Nicholas.....	S. R. King (D).....	Summersville
Ohio.....	George C. Beneke (R).....	Wheeling
	W. B. Elliott (R).....	Wheeling
	A. E. Marschner (R).....	Wheeling
	George W. Oldham (D).....	Wheeling
Pendleton.....	W. W. Harper (D).....	Riverton
Pleasants.....	J. R. Locke (D).....	Federal
Pocahontas.....	J. A. McLaughlin (D).....	Marlinton
Preston.....	J. S. Dunn (R).....	Roedersville
	L. F. Everhart (R).....	Terra Alta
Putnam.....	H. E. Honaker (D).....	Nitro
Raleigh.....	R. L. Hunter (D).....	Jarrolds Valley
	F. C. George (D).....	Bekley
Randolph.....	Paul M. Crouch (D).....	Elkwater
	Bruce F. Phares (D).....	Elkins
Ritchie.....	Robert Morris (R).....	Harrisville
Roane.....	Phil D. Phillips (R).....	Spencer
	Wood Taylor (R).....	Cicerone
Summers.....	T. N. Read (D).....	Hinton
Taylor.....	Fred B. Watkins (D).....	Grafton
Tucker.....	A. E. Calvert (D).....	Parsons
Tyler.....	I. M. Underwood (R).....	Middlebourne
Upshur.....	C. B. Wilson (R).....	Frenchton
Wayne.....	Thomas Maynard (R).....	Queen's Ridge
	W. F. Bruns (R).....	Ceredo
Webster.....	W. C. Cooper (D).....	Webster Springs
Wetzel.....	Septimius Hall (D).....	New Martinsville
	G. W. Coffield (D).....	New Martinsville
Wirt.....	E. F. Daniell (D).....	Elizabeth
Wood.....	James P. Duval (D).....	Parkersburg
	George W. Dye (D).....	Parkersburg
	George Huber (D).....	Parkersburg
Wyoming.....	Eli Lusk (R).....	Herndon

65 Democrats
29 Republicans

Standing Committees of the House of Delegates

ON ELECTIONS AND PRIVILEGES.

Messrs. Sutton (*Chairman*), Brammer, Jones, Crouch, King, Sydenstricker, Paugh, Vaught, Mohler, Huber, Slaughter Everhart, Beneke, Taylor and Wilson (of Upshur).

ON JUDICIARY

Messrs. Read (*Chairman*), Estep, Zimmerman, King, Coffield, Wilson (of Gilmer), Duval, Pence, Stephenson, Moore, Brown, Strother, Underwood and Beneke.

ON FEDERAL RELATIONS.

Messrs. Calvert (*Chairman*), Crouch, Cox, Miller, Sutton, Wingrove, George, Hall (of Mingo), Hall (of Wetzel), Paugh, Hatfield, Harschner, Sommerville, Bruns and Dailey.

ON TAXATION AND FINANCE.

Messrs. Aleshire (*Chairman*), Oldham, Hall (of Wetzel), Vaught, Estep, Huber, Sutton, Righter, Holroyd, McLaughlin, Hood, Willis, Farris, Byrnes and Hatfield.

ON MILITARY AFFAIRS.

Messrs. Ash (*Chairman*), Coffield, Marshall, Proctor, Honaker, Bailey, Huber, Hunter, Davisson, Delawder, Mohler, Eubank, Dailey, Farris and Taylor.

ON PROHIBITION AND TEMPERANCE.

Messrs. Coffield (*Chairman*), Mrs. Gates, Messrs. Watkins, Armstrong, Jones, Stevens, Mohler, Hopkins, Sutphin, Harvey, Smith (of Doddridge), Somerville, Eubank Rexroad and Elliott.

EDUCATION.

Messrs. Oldham (*Chairman*), Brammer, Ash, Gates (Mrs.), Hopkins, Harvey, Paugh, Hunter, King, Hall (of Mingo), Delawder, Elliott, Capehart, Morris and Willis.

ON COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS.

Messrs. Harper (*Chairman*), Scanlon, Duval, Bailey, George, Garvin (of Harrison), Marshall, Goff, Daniell, Goode, Marschner, Slaughter, Capehart, Bruns and Rexroad.

ON BANKS AND CORPORATIONS.

Messrs. Stephenson (*Chairman*), Vaught, Righter, Stevens, Wingrove, Wilson (of Gilmer), Cox, Hood, Dye, Read, Smith (of Doddridge), Elliott, Everhart, Phillips and Brown.

ON ROADS.

Messrs. Hall (of Mingo) (*Chairman*), Wilson (of Mason), Zimmerman, Holroyd, McLaughlin, Crouch, Patton, Ash, Stevens, Scanlon, Blackwood, Farris, Brown Underwood and Morris.

FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Cooper (*Chairman*), Brammer, Dye, Miller, Patton, Phares, Stephenson, Sydenstricker, Garvin (of Harrison), Smith (of Doddridge), Smith (of Lewis), Everhart, Taylor and Sommerville.

ON CLAIMS AND GRIEVANCES.

Messrs. Wingrove (*Chairman*), Goff, Stephenson, Wilson (of Gilmer), Sutphin, Pence, Goode, Daniell, Craig, Marshall, Eubank, Smith (of Lewis), Dunn, Wilson (of Upshur) and Byrnes.

ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.

Messrs. Holroyd (*Chairman*), Sutton, Scanlon, Craig, Hopkins, Mrs. Gates, Messrs. Zimmerman, Calvert, Hall (of Mingo), Garvin (of Harrison), Ash, Dailey, Capehart, Beneke and Lusk.

ON PRINTING AND CONTINGENT EXPENSES.

Messrs. Jones (*Chairman*), Garvin (of Harrison), Righter, Craig, Cooper, Wilson (of Mason), Cox, Oldham, Goff, Hopkins, Morris, Maynard, Hatfield, Smith (of Doddridge), and Marschner.

ON THE EXECUTIVE OFFICES AND LIBRARY.

Messrs. Locke (*Chairman*) Neal, Jones, Delawder, Kuhn, Phares, Goode, Cooper, Armstrong, Wingrove, Bailey, Smith (of Berkeley), Willis, Beneke and Maynard.

ON FORESTRY AND CONSERVATION.

Messrs. Crouch (*Chairman*), Bailey, Wingrove, Clelland, Paugh, Blackwood, Calvert, Read, Davisson, Pence, Hunter, Farris, Dunn, Moore and Maynard.

ON ARTS, SCIENCE AND GENERAL IMPROVEMENTS.

Mrs. Gates (*Chairman*), Messrs. Harvey, Daniell, Dye, Garvin (of Fayette), Brammer, Proctor, Honaker, Locke, Marshall, Rexroad, Slaughter, Smith (of Lewis), Phillips and Lusk.

ON THE PENITENTIARY.

Messrs. Sydenstricker (*Chairman*), Hall (of Wetzell), Oldham, Neal, Garvin (of Harrison), Proctor, Duval, Harvey, Clelland, Holroyd, Byrnes, Underwood, Smith (of Berkeley), Capehart and Bruns.

ON MINES AND MINING.

Messrs. Hood (*Chairman*), Stevens, Garvin (of Fayette), Harvey, Kuhn, Estep, Neal, Honaker, Hall (of Mingo), Holroyd, Strother, Dunn, Lusk, Moore and Brown.

ON AGRICULTURE.

Messrs. Patton (*Chairman*), Blackwood, King, Locke, Wilson (of Mason), Dye, McLaughlin, Paugh, Sydenstricker, Mohler, Pence, Dunn, Smith (of Berkeley), Wilson (of Upshur) and Taylor.

ON STATE BOUNDARIES.

Messrs. Huber (*Chairman*), Armstrong, Calvert, Patton, Miller, Scanlon, Sutton, Vaught, Brammer, Locke, Maynard, Dailey, Elliott, Smith (of Lewis) and Eubank.

ON RAILROADS.

Messrs. Proctor (*Chairman*), Sydenstricker, Zimmerman, Honaker, Clelland, Coffield, Duval, McLaughlin, Kuhn, Armstrong, Farris, Dailey, Strother, Moore and Brown.

ON LABOR.

Messrs. Kuhn (*Chairman*), Huber, Estep, Honaker, Jones, Phares, Cox, George, Goode, Sutphin, Clelland, Phillips, Eubank, Byrnes and Sommerville.

ON MEDICINE AND SANITATION.

Messrs. Hunter (*Chairman*), Holroyd, Calvert, Goff, Coffield, Mrs. Gates, Messrs. Clelland, Scanlon, Harper, Righter, Bruns, Willis, Wilson (of Upshur) and Sommerville.

ON GAME AND FISH.

Messrs. Wilson (of Mason) (*Chairman*), Phares, Harper, Righter, Watkins, McLaughlin, Bailey, Zimmerman, Cooper, Delawder, Sutphin, Smith (of Berkeley), Byrnes, Rexroad and Wilson (of Upshur).

ON INSURANCE.

Messrs. McLaughlin (*Chairman*), Hall (of Wetzel), Miller, Neal, Harper, Locke, Duval, Davisson, George, Watkins, King, Morris, Marschner, Rexroad and Lusk.

ON RE-DISTRICTING.

Messrs. King, (*Chairman*), Craig, Daniell, Aleshire, Read, Wilson (of Gilmer), Watkins, Davisson, Zimmerman, Underwood, Slaughter, Strother and Everhart.

ON RULES.

Mr. Speaker (*Chairman, ex-officio*), Messrs. Zimmerman, Aleshire, Wilson (of Mason), Read, Estep, Moore and Strother.

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Legislature of West Virginia

ACTS OF 1923

REGULAR SESSION

CHAPTER 1

(Senate Bill No. 1—Mr. Coffman)

AN ACT repealing chapter thirty-three of the acts of the legislature of one thousand nine hundred and thirteen, providing for the distribution of the journals and bills of the legislature, the same being an emergency measure.

[Passed January 12, 1923. In effect from passage. Approved by the Governor January 24, 1923]

Sec. 1. Repealing chapter thirty-three, acts nineteen hundred and thirteen.

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter thirty-three of the acts of the legislature of one thousand nine hundred and thirteen, providing for the distribution of the journals and bills of the legislature to the people of the state, is hereby repealed.

CHAPTER 2

(Senate Bill No. 13—Mr. Porter)

AN ACT to amend and re-enact section eighty-seven of chapter fifteen-h of Barnes' code of one thousand nine hundred and eighteen, relating to treatment in Welch hospital number one, McKendree hospital number two and Fairmont hospital number three.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 87. Admission and treatment; persons accidentally injured to have precedence; treatment of persons entitled to receive benefits</p>	<p>out of compensation fund to be paid for by commissioner; moneys collected to be paid into state treasury; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That section eighty-seven of chapter fifteen-h of Barnes' code of one thousand nine hundred and eighteen be amended and re-enacted so as to read as follows:

Section 87. It shall be the duty of the state board of control 2 to admit to said hospitals, under its rules and regulations, per- 3 sons requiring hospital care; and to treat free of charge per- 4 sons accidentally injured, in this state, while engaged in their 5 usual employment, but preference at all times shall be given to 6 persons accidentally injured; *provided, however*, the workmen's 7 compensation commissioner shall pay to said hospitals for the 8 treatment of any one entitled to benefits or aid out of the work- 9 men's compensation fund the same fees or expenses as would 10 be paid to a private hospital for similar treatment. All mon- 11 eys collected under this section shall be paid into the state 12 treasury through the state board of control as required under 13 section six, chapter fifteen-m, code of one thousand nine hun- 14 dred and eighteen.

15 All acts and parts of acts in conflict with this act are hereby 16 repealed.

CHAPTER 3

(Senate Bill No. 38—Mr. White, of Mingo)

AN ACT to amend chapter one hundred and sixty-three of Barnes' code of one thousand nine hundred and eighteen, by adding thereto section fifty, relating to the appointment of a deputy warden for the state penitentiary.

[Passed April 24, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 50. Warden to appoint deputy and prescribe duties; deputy to be ex officio captain of guards;</p>	<p>salary fixed by board of control; to give bond; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter one hundred and sixty-three of Barnes' code of one thousand nine hundred and eighteen be amended by adding thereto section fifty, to read as follows:

Section 50. The warden of the penitentiary of West Virginia shall appoint a deputy warden of the penitentiary who shall also be ex officio captain of the guards, who shall hold office during the will and pleasure of the warden, and whose salary shall be fixed by the board of control. The deputy warden's duties are to be fixed by the warden; and in the absence of the warden the deputy warden shall perform all the duties required of the warden.

The deputy warden shall give bond in the sum of five thousand dollars, in the same manner and under the same conditions as required of the warden.

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

CHAPTER 4

(Senate Bill No. 39—Mr. McClaren)

AN ACT authorizing the issuance and sale of not exceeding fifteen million dollars of bonds of the state of West Virginia to raise money for road construction purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred and twenty; and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on said bonds and the principal thereof within twenty-five years, the same being an emergency measure.

[Passed January 23, 1923. In effect from passage. Approved by the Governor January 24, 1923]

- | | |
|--|---|
| <p>Sec.
1. Sale of bonds of the state for fifteen million dollars to build roads authorized.</p> <p>2. Date of bonds; when payable; character and denomination; transfer of registered bonds and fee for such; same to be cancelled and preserved; where payable; rate of interest and when and how paid; bonds and interest payable in gold coin; exempt from taxation.</p> | <p>Sec.
3. Bonds; how engraved and signed; form of.</p> <p>4. Form of coupons; how signed and numbered.</p> <p>5. Coupon and registered bonds to be listed separately by auditor.</p> <p>6. Moneys to be paid into state road sinking fund; same to be kept in separate account; how applied.</p> |
|--|---|

<p>SEC. 7. Board of public works may levy tax to pay interest and one-twenty-fifth of total issue; how other funds may be used.</p> <p>8. Governor to sell bonds upon recommendation of state road</p>	<p>SEC. 9. commission; sales to be at par, etc. 10. Plates to be property of state. 11. Payment of expenses out of state road fund. Auditor to be custodian of un-sold bonds.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the 2 par value of fifteen million dollars are hereby authorized to be 3 issued and sold for the purpose of raising funds to build, con- 4 struct and maintain a system of state roads and highways in the 5 state of West Virginia, as authorized by the "Good Roads 6 Amendment" to the constitution of said state adopted at the 7 general election held in November, one thousand nine hundred 8 and twenty.

Sec. 2. Said bonds shall be dated April first, one thousand 2 nine hundred and twenty-three, and shall become due and pay- 3 able serially in equal amounts beginning April first, one thousand 4 nine hundred and twenty-nine, and ending April first, one 5 thousand nine hundred and forty-eight, and may be coupon or 6 registered and in such denominations as the governor may de- 7 termine.

8 The auditor and treasurer are authorized to arrange for the 9 transfer of registered bonds and for each such transfer a fee of 10 fifty cents shall be charged by and paid to the state of West Vir- 11 ginia to the credit of the "State Road Sinking Fund." Bonds 12 taken in exchange shall be cancelled by the auditor and treasurer 13 and be carefully preserved by the treasurer.

14 All of such bonds shall be payable at the office of the treasurer 15 of the state of West Virginia, or at the option of the holder of 16 said bonds, at some designated bank in the city of New York, 17 to be designated by the governor. Said bonds shall be interest 18 bearing at the rate of not exceeding four and one-half per centum 19 per annum and the said interest shall be payable semi-annually 20 on the first day of April and October of each year to bearer at 21 the office of the treasurer of the state of West Virginia at the cap- 22 itol of said state, or, at the option of the holder, at some designat- 23 ed bank in New York city, to be designated by the governor upon 24 presentation and surrender of the interest coupons representing 25 interest then due, in the case of the coupon bonds. In the case 26 of registered bonds, the treasurer of the state of West Virginia 27 shall issue his check for the payment of interest on the first day

28 of April and October of each year for the amount of registered
29 bonds outstanding as shown by the records of his office.

30 Both the principal and interest of said bonds shall be pay-
31 able in gold coin of the United States of the present standard of
32 weight and fineness. All said bonds shall be exempt from taxa-
33 tion by the state of West Virginia, or by any county, district, or
34 municipality thereof, which fact shall appear on the face of the
35 bonds as part of the contract with the holder thereof.

Sec. 3. Said bonds and coupons shall be engraved and the
2 bonds shall be signed, on behalf of the state of West Virginia,
3 by the treasurer thereof, under the great seal of the state, and
4 countersigned by the auditor, and shall be in the following form
5 or to the following effect, as near as may be namely :

6

COUPON GOLD BOND

7

(or Registered Gold Bond, as the case may be)

8

of the

9

State of West Virginia.

10 \$..... Number.....

11 The state of West Virginia, under and by virtue of authority
12 of an act of its legislature passed at a regular session of one
13 thousand nine hundred and twenty-three on the.....day of
14, one thousand nine hundred and twenty-three
15 and approved by the governor on the.....day of.....,
16 one thousand nine hundred and twenty-three, reference to which
17 is hereby made as fully and at length as if set forth herein, ac-
18 knowledges itself to be indebted to, and hereby promises to pay
19 to the bearer hereof (in the case of a coupon bond) or to
20, or assigns, (the owner of record, in the case
21 of registered bonds)..... years after the date of this
22 bond, to-wit, on the.....day of.....19....., in gold
23 coin of the United States of America of the present standard of
24 weight and fineness, at the office of the treasurer of the state of
25 West Virginia, at the capitol of said state, or at the option of
26 the holder at.....bank in the city of New York
27 the sum of.....dollars, with interest thereon at.....
28 per centum per annum from date, payable semi-annually in gold
29 coin of the United States of America, at the treasurer's office or
30 bank aforesaid, on the first day of April and the first day of
31 October of each year, (and in the case of coupon bonds) ac-
32 cording to the tenor of the annexed coupons, bearing the en-
33 graved fac-simile signature of the treasurer of the state of West
34 Virginia.

35 To secure the payment of this bond, principal sum and inter-
 36 est, when other funds and revenues sufficient are not available,
 37 for that purpose, it is agreed that the board of public works of
 38 the state of West Virginia shall annually cause to be levied and
 39 collected an annual state tax on all property in the state, until
 40 said bond is fully paid; sufficient to pay the annual interest on
 41 said bonds and the principal sum thereof within the time this
 42 bond becomes due and payable.

43 This bond is hereby made exempt from any taxation by the
 44 state of West Virginia, or by any county, district or municipal
 45 corporation thereof.

46 In testimony whereof, witness the signature of.....
 47, treasurer of the state of West Virginia, and
 48 the counter signature of....., auditor of said
 49 state hereto affixed according to law, dated the.....day of
 50one thousand nine hundred and....., and
 51 the seal of the state of West Virginia.

52 (Seal)

53 Countersigned: Treasurer of the state of West Virginia.
 54.....,

55 Auditor of the state of West Virginia.

Sec. 4. The form of coupons shall be substantially as fol-

2 lows, to-wit:

3 State of West Virginia
 4 Bond No..... Coupon No.....

5 On the first day of.....19....., the state
 6 of West Virginia will pay to the bearer, in gold coin of the
 7 United States of the present standard of weight and fineness, at
 8 the office of the treasurer of the state, or at the option of the
 9 holder atbank in
 10 New York city, the sum of.....dollars
 11 the same being semi-annual interest on Bond No.....series
 12 of one thousand nine hundred and twenty-.....

13
 14 Treasurer of the state of West Virginia.

15 The signature of the treasurer to said coupons shall be by his
 16 engraved fac-simile signature, and each coupon shall be im-
 17 pressed on the back with its number in order of maturity from
 18 number one consecutively. Said bonds and coupons may be
 19 signed by the present treasurer and auditor, or by any of their
 20 respective successors in office; but no change in such signatures
 21 shall be necessary by reason of any change of said officers.

Sec. 5. All coupons and registered bonds issued under this act shall be separately listed by the auditor of the state in books provided for the purpose, in each case giving the date, number, character and amount of obligations issued, and, in case of registered bonds, the name of persons, firm, or corporation to whom issued.

Sec. 6. Into the state road sinking fund shall be paid all moneys received from the annual state tax levy on the taxable property in the state levied under the provisions of this act, from any and all appropriations made by the state from other sources for the purposes of paying the interest on said bonds or paying off and retiring same, from fines, forfeitures and penalties, if any made applicable by law for the payment of said bonds or the interest thereon, from transfer fees as herein provided, and from any source whatsoever, which is made liable by law for the payment of the principal of said bonds or the interest thereon.

All such funds shall be kept by the treasurer in a separate account, under the designation aforesaid, and all money belonging to said fund shall be deposited in the state treasury to the credit thereof.

Said fund shall be applied by the treasurer of the State, first to the payment of the semi-annual interest on said bonds as it becomes due as herein provided. The remainder of said fund shall be turned over by the state treasurer to the state sinking fund commission, whose duty it shall be to invest the same in the bonds of the government of the United States, the bonds of the state of West Virginia, or any political sub-division thereof; *provided, however*, that bonds so purchased by the said state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided to be issued as they may become due; and the money so paid into the said state road sinking fund under the provisions of this act shall be expended for the purpose of paying the interest and principal of the bonds hereby provided for, and for no other purpose except that said fund may be invested until needed, as herein provided.

Sec. 7. In order to provide the revenue necessary for the payment of the principal and interest of said bonds, as hereinbefore provided, the board of public works is authorized, empowered and directed to lay annually a tax upon all real and personal property subject to taxation within this state, sufficient to pay interest on said bonds accruing during the current year and one-

7 twenty-fifth of the total issue (at par value) of said bonds, for
8 such number of years, not exceeding twenty-five, as may be
9 necessary to pay the interest thereon and to pay off the princi-
10 pal sum of said bonds; and said taxes, when so collected, shall
11 not be liable for or applicable to any other purpose.

12 *Provided, however,* if there be other funds in the state treas-
13 ury, or in the state road fund, in any fiscal year, not otherwise
14 appropriated, or if other sources of revenue be hereafter pro-
15 vided by law for the purpose, the board of public works is
16 authorized, empowered and directed to set apart, in any year
17 there be such funds, or other sources of revenue provided for
18 such purpose, a sum sufficient to pay the interest on said bonds
19 accruing during the current year, and to pay off and retire the
20 principal of said bonds, or any part thereof, at maturity.

21 The authority hereby vested in the board of public works shall
22 be in addition to the authority now vested in it by present law.

Sec. 8. The governor shall sell all bonds herein mentioned at
2 such time or times as he may determine necessary to provide
3 funds for road construction purposes, as herein provided, upon
4 recommendation of the state road commission. All sales shall
5 be at not less than par and interest accrued since the last semi-
6 annual dividend period. All interest coupons becoming pay-
7 able prior to said sale date shall be cancelled by the treasurer
8 and rendered ineffective before the delivery of the bonds so sold.
9 Registered bonds shall bear interest only from the date of de-
10 livery.

Sec. 9. The plates from which the bonds, authorized by this
2 act are printed shall be the property of the state of West Vir-
3 ginia.

Sec. 10. All necessary expenses incurred in the execution of
2 this act shall be paid out of any money in the treasury of the
3 state of West Virginia, belonging to the state road fund on war-
4 rants of the auditor of the state drawn on the state treasurer.

Sec. 11. The state auditor shall be the custodian of all unsold
2 bonds issued pursuant to the provisions of this act.

CHAPTER 5

(Senate Bill No. 220—Mr. Hugus)

AN ACT to amend and re-enact section eighty-two of chapter one hundred and twelve of the acts of the legislature of West Virginia, of one thousand nine hundred and twenty-one.

[Passed April 13, 1923. In effect from passage. Approved by the Governor April 18, 1923]

<p>SEC. 52. (Class G.) Dealer defined; fee for plates and additional plates;</p>	<p>commission may issue special permits; penalty.</p>
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Be it enacted by the Legislature of West Virginia:

That so much of section eighty-two of chapter one hundred and twelve, being that part of said section appearing as class G, be amended and re-enacted so as to read as follows:

Class G. A dealer within the meaning of this act shall be a 2 person, partnership, corporation, or joint stock company, whose 3 business shall be the buying and selling of motor vehicles, or 4 the exchanging of motor vehicles. Each dealer in motor ve- 5 hicles, except motor cycles, shall pay a fee of thirty dollars 6 yearly, in consideration of which he shall receive one set of 7 special registration plates to be used only on vehicles operated 8 upon the highways leading to sale or exchange, and such 9 plates may be used on any vehicle owned by such dealer 10 for the purpose aforesaid; *provided*, that in case of sale 11 or exchange of a vehicle, the dealer may give permis- 12 sion in writing, to the new owner of the vehicle to use said 13 dealer's license plates for a period not to exceed five days. 14 Five additional sets of plates shall be issued to any dealer 15 licensed in accordance with this act, upon application and pay- 16 ment of a fee of fifteen dollars. Additional sets of said plates 17 shall be issued to any dealer licensed in accordance with this 18 act, upon application and payment of a fee of two dollars for 19 each additional set.

20 The commission shall have power to grant, in its discretion 21 special permits to a dealer for use on motor vehicles driven under 22 their own power from the factory or distributing place of a 23 manufacturer, or other dealer, to the place of business of such 24 dealer, and the commission shall charge a fee of one dollar for 25 each such permit. Such special permit shall be good only for 26 one trip and for the specific vehicle upon which used, and such 27 permit shall not be used by such dealer in lieu of any registra-

28 tion certificate or plate, required by this act. No dealer shall
29 use the dealer's plates upon any vehicle used for transportation
30 of freight, or for passenger service, pleasure or hire.

31 Any person or persons violating any of the provisions of this
32 act, shall, upon conviction be guilty of a misdemeanor and shall
33 be fined not less than fifty dollars nor more than one hundred
34 dollars for the first offense and for the second or subsequent
35 offense shall be fined not less than one hundred dollars nor
36 more than five hundred dollars, and in addition thereto, his
37 license shall be revoked for the balance of the calendar year.

CHAPTER 6

(Senate Bill No. 336—Mr. McClaren)

AN ACT to amend and re-enact sections twelve, fifteen, seventeen, twenty, twenty-five, thirty-one, fifty-six, sixty-seven, seventy-one, seventy-five, seventy-six, eighty-two, eighty-three, ninety-three, ninety-four, ninety-five, one hundred and four, one hundred and twenty-three, one hundred and thirty-eight, and one hundred and forty-six, of chapter one hundred and twelve of the acts of the legislature, one thousand nine hundred and twenty-one, regular session, and by adding thereto section twenty-one-a, relating to public roads and the use thereof.

[Passed April 27, 1923. In effect from passage. Approved by the Governor May 2, 1923]

- | SEC. | SEC. |
|---|--|
| 12. State road commission to make regulations for preservation of state roads; publication of same; penalty for violation of; procedure at hearings. | 31. Right of eminent domain; county courts to pay for right of way. |
| 15. State road fund; creation; for what expended. | 56. State road commission to have power to construct bridges, etc. |
| 17. State road commission; to furnish county courts with maps of state routes and record plans of state maintained roads; to designate streets in municipalities as parts of state road system and to limit weight of vehicles thereon. | 67. Signs, advertisements, etc. prohibited; penalty for violation; commission may remove all such. |
| 20. Same; to take over improved roads; certification of order to county clerks; may construct bridges within municipalities. | 71. State road commission and employees to enforce laws relating to highways; badges to be worn; special officers to give bond. |
| 21a. Same and county courts to have right of way over other business in complaints before public service commission. | 75. Administration of vehicle law; commission to collect license fees, etc.; definition of various kinds of vehicles, equipment, roads, etc. |
| 25. All construction to be done by contract; manner of advertising for bids and letting contracts; certified check and bond. | 76. License required for driving; how obtained. |
| | 82. Formula for determining horse power; fees for registration plates; form of application for permit for motor vehicles carrying passengers or property for compensation; form of such permit; penalty. |

<p>SEC. 83. Fees charged for calendar year; loss or destruction of plates; expiration of license upon transfer; manner of transfer of registration; penalty.</p> <p>93. Restrictions as to size and weights of vehicles.</p> <p>94. Special permits for vehicles exceeding limits; how obtained and form of.</p> <p>95. Speed limits for various kinds of vehicles; penalty; transcript of docket to be furnished to com-</p>	<p>SEC. mission; police officers to assist commission without extra charge.</p> <p>104. County-district roads; construction of by county courts; designation of municipal streets; municipal bridges.</p> <p>123. District road superintendent to have police powers over roads in his district.</p> <p>138. County-district roads; county court's duties; condemnation procedure.</p> <p>146. Sidewalks along roads; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That sections twelve, fifteen, seventeen, twenty, twenty-five, thirty-one, fifty-six, sixty-seven, seventy-one, seventy-five, seventy-six, eighty-two, eighty-three, ninety-three, ninety-four, ninety-five, one hundred and four, one hundred and twenty-three, one hundred and thirty-eight, and one hundred and forty-six, of chapter one hundred and twelve of the acts of the legislature, one thousand nine hundred and twenty-one, regular session, be amended and re-enacted, and that there be added to said chapter section twenty-one-a, to read as follows:

Section 12. The state road commission is hereby authorized 2 and empowered to make and enforce from time to time such 3 rules, regulations and orders as it may deem necessary, not 4 inconsistent with law or otherwise provided herein, for the 5 preservation of state roads, and to regulate the use of the same 6 by tractors, traction engines, wagons and such other vehicles 7 or conveyances as by such uses produce more than an or- 8 dinary amount of wear and tear thereon. Every general regu- 9 lation adopted by the commission shall state the date on which 10 it takes effect, which shall not be less than ten days after the 11 date of publication. Such rules, regulations and orders when 12 and as promulgated or authorized, shall be printed by the 13 commission for free distribution to any applicant therefor. A 14 copy of such rules and regulations, duly signed by the chair- 15 man and the secretary of the commission shall be sent by the 16 secretary to the secretary of state, to each officer and to each 17 county court affected thereby. Any person violating such or- 18 der or regulation shall be deemed guilty of a misdemeanor, and 18-a upon conviction thereof shall be fined not less than one dollar, 19 nor more than one hundred dollars, or imprisoned for not less 20 than ten days nor more than three months, or both fined and im- 21 prisoned, at the discretion of the court or justice trying the case. 22 In all hearings and proceedings before said commission, the

23 evidence of witnesses and the production of documentary evi-
24 dence may be required at any designated place of hearing; and
25 summons may be issued by the secretary or any member of
26 the commission. In case of disobedience to a summons or other
27 processs so issued, the commission or any party to the proceed-
28 ings before the commission, may invoke the aid of any circuit
29 court in requiring the evidence and testimony of witnesses and
30 the production of papers, books and documents. And upon
31 proper showing, such court shall issue an order requiring such
32 persons to appear before the commission and produce all books
33 and papers, and give evidence touching the matter in question.
34 Any person failing to obey such order may be punished by
35 such court for contempt thereof. A claim that any such
36 testimony or evidence may tend to incriminate the person giv-
37 ing the same, shall not excuse such witness from testifying.
38 but such witness shall not be prosecuted for any offense con-
39 eerning which he is compelled hereunder to testify.

Sec. 15. There shall be, and there is hereby created a state
2 road fund. The said fund shall consist of the proceeds of all
3 state license taxes imposed upon automobiles or other motor or
4 steam driven vehicles, and collected from the owners thereof;
5 the registration fees imposed upon all owners, chauffeurs, oper-
6 ators and dealers in automobiles or other motor driven ve-
7 hicles; all sums of money which may be donated to such fund;
8 all proceeds derived from the sale of state bonds issued pur-
9 suant to any resolution or act of the legislature carrying into
10 effect the "Road Amendment" to the constitution of this state,
11 adopted, in the month of November, one thousand nine hundred
12 and twenty, including interest thereon; all moneys and funds
13 appropriated to it by the legislature; all moneys and funds al-
14 lotted or appropriated by the federal government to this state
15 for road construction and maintenance pursuant to any act of
16 the congress of the United States; the proceeds of all taxes
17 imposed upon, or collected from any person, firm or corpora-
18 tion for the benefit of such fund; all taxes or charges imposed
19 upon, or collected from any county, district or municipality
20 for the benefit of such fund; the proceeds of all judgments, de-
21 crees or awards recovered and collected from any person, firm
22 or corporation for damages done to, or sustained by any of the
23 state roads or parts thereof; all moneys recovered or received
24 by reason of the violation of any contract respecting the build-

25 ing, construction or maintenance of any state road; and all
26 penalties and forfeitures imposed, recovered or received by rea-
27 son thereof, and any and all other moneys and funds appro-
28 priated to, imposed and collected for the benefit of such fund,
28-a or collected by virtue of any statute and payable to said fund.

29 When any money is collected from any of the sources afore-
30 said, it shall be paid into the state treasury by the officer whose
31 duty it is to collect and account for the same, and credited to the
32 state road road fund, and shall be used only for the purposes
33 named in this act, that is to say; (1) to pay the principal and in-
34 terest due on all state bonds issued for the benefit of said fund,
35 and set aside and appropriated for that purpose; (2) to pay
36 the expenses of the administration of said road commission;
37 (3) to pay the expenses and costs of maintenance of all state
38 roads, and (4) to pay the expenses and costs of all construc-
39 tion, re-construction and improvement of state roads; *provided*,
40 that none of the funds derived from the sale of state bonds for
41 road purposes shall be used or expended, except for construc-
42 tion and re-construction of state roads.

43 The net proceeds of all moneys heretofore collected by the
44 state road commission, or that shall hereafter be collected by the
45 commission created by this act, as license, registration and trans-
46 fer taxes, other than special privilege taxes, imposed upon the
47 owners of motor or steam driven vehicles, and the license taxes
48 imposed upon chauffeurs and operators of motor vehicles, or de-
49 rived from the government of the United States for road pur-
50 poses, for the calendar year one thousand nine hundred and
51 twenty-one, and not otherwise appropriated by act of the leg-
52 islature, and not appropriated and set aside by the commission
53 under contracts made pursuant to law with county courts, shall
54 be used and expended by the commission for the construction
55 and maintenance of state roads to be taken over by the com-
56 mission pursuant to the provisions of this act.

57 All moneys heretofore collected, or that shall be hereafter col-
58 lected by the commission as special privilege taxes for the cal-
59 endar year one thousand nine hundred and twenty-one shall be
60 expended for the purposes and in the manner provided by chap-
61 ter sixty-six of the acts of the legislature of one thousand nine
62 hundred and seventeen.

Sec. 17. The state road commission as soon as practicable
2 after it has located and established a system of state roads, as

3 provided in the preceding section, shall furnish to the clerks
4 of the county courts of the several counties road maps of their
5 several counties, respectively, showing the state routes desig-
6 nated by said commission constituting the state road system. As
7 sections of such routes are taken over by the state road com-
8 mission for maintenance or are constructed the commission
9 shall as soon as practicable deliver to the clerk of the county
10 court of each county in which such roads so taken over shall
11 lie, complete record plans of such roads, together with ac-
12 curate descriptions by metes and bounds of the rights of way
13 thereof, and the said clerk shall file in his office such record
14 plans and record such descriptions of rights of way in the road
15 record book in his office.

16 The commission shall also have authority to designate streets
17 in municipalities as connecting parts of the state road system
18 and the municipal authorities shall not make or enforce any
19 ordinance, order, rule or regulation decreasing the size
20 and weight limits of vehicles upon the streets so designated ;
21 *provided, however,* that any incorporated city or town shall
22 have power to regulate or forbid the parking of vehicles upon
23 any such designated streets, within its limits, and to regulate
24 the progress of traffic at street intersections in congested dis-
25 tricts thereof.

Sec. 20. As soon as may be after the passage of this act, and
2 when funds are available for that purpose, the state road com-
3 mission shall, by an order entered of record, take over and
4 assume charge of the further construction, reconstruction and
5 maintenance of all roads, or sections of roads on the state routes
6 in the several counties which have been improved with a hard
7 surface, and which, in the opinion of the commission, shall
8 have been constructed and maintained in accordance with ap-
9 proved methods, or in accordance with recognized standard
10 plans and specifications, and said commission shall, also, in like
11 manner take over and assume charge of the further main-
12 tenance of all graded earth roads on state routes which have
13 been constructed with the aid of the state or federal moneys,
14 or have been constructed in accordance with the standards for
15 state and federal aid work ; *provided,* that no roads lying with-
16 in any incorporated town or city having a population of more
17 than two thousand five hundred persons, except the National
18 or Cumberland road through the city of Wheeling, in Ohio
19 county, shall be so taken over by the commission ; *provided,*

20 *further*, that certified copies of the order required herein to be
21 entered by the commission shall be delivered by it to the clerks
22 of the county courts of the several counties in which the roads
23 to be taken over as provided by this section shall lie; and each
24 of said clerks shall record in the road record book in his office
25 the copy so delivered to him. *Provided, further*, that the state
26 road commission may construct, expend money on or take over
27 bridges lying within municipalities of over twenty-five hund-
28 red inhabitants in the manner hereinafter provided.

Sec. 21-a. In the matter of intrastate freight rates, car
2 service and movement of road making material and machinery
3 to be used in the construction of roads, the state road commis-
4 sion and the county courts of the state shall present any
5 grievance they may have against the public carriers of the state
6 to the public service commission of West Virginia, which said
7 matter shall have right of way over all other business before
8 said public service commission.

Sec. 25. All work of construction and reconstruction of state
2 roads and bridges, and the furnishing of all materials and sup-
3 plies therefor, and for the repair thereof, unless manufac-
4 tured or assembled by the commission, shall be done and fur-
5 nished pursuant to contract, except that the commission shall
6 not be required to award any contract for work or for ma-
7 terials or supplies for an amount less than three thousand dol-
8 lars. When the commission is about to construct, reconstruct
9 or improve any road or highway, it shall file with the clerk of
10 the county court, or of the municipality, as the case may be,
11 in which such road lies, a certified copy of plans and specifi-
12 cations therefor, and a notice that said commission is about to
13 enter upon and proceed with the work in question. If the
14 said work is to be done, or the materials therefor are to be
15 furnished by contract, the commission shall thereupon adver-
16 tise for at least four weeks in two newspapers of opposite poli-
17 ties, if there be such, but if not then in one newspaper, pub-
18 lished in each county or municipality in which the road lies, and
19 for one week in at least one daily newspaper published in the
20 city of Charleston, and in such other journals or magazines as
21 may to the commission seem advisable, for sealed proposals for
22 the construction or other improvement of said road, and for
23 the furnishing of materials required therefor, accurately de-
24 scribing the same, and stating the time and place for opening
25 said proposals, and reserving the right to reject any and all

26 proposals. Said proposals shall be publicly opened and read at
27 the time and place specified in said advertisement, and the con-
28 tract for such work, or for the supplies or materials required
29 therefor, shall, if let, be awarded by the commission to the
30 lowest responsible bidder for the type of construction selected.
31 In case the commission shall reject all bids, it may thereafter do
32 the work with its own forces or with prison labor, or it may re-
33 advertise in the same manner as before, and let a contract for
34 such work pursuant thereto, but no such contract shall be
35 let at a higher price than the lowest responsible bid thereto-
36 fore received for the same, without a re-advertisement. In any
37 case where a contract for work and materials shall be let as a
38 result of competitive bidding, the successful bidder shall
39 promptly and within twenty days after notice of award, exe-
40 cute a formal contract to be approved as to its form, terms and
41 conditions by the commission, and shall, also, execute and de-
42 liver to the commission a good and sufficient surety or col-
43 lateral bond, payable to the state of West Virginia, to be ap-
44 proved by the commission, in such amount as the commis-
45 sion shall require, but not to exceed one-half of the contract
46 price. To all such bids there shall be attached the certified
47 check of the bidder, or bidder's bond acceptable to the com-
48 mission, in such amount as the commission shall specify in the
49 advertisement, but not to exceed five per centum of the ag-
50 gregate amount of the bid; *provided*, that such amount shall
51 never be less than five hundred dollars. The bidder who has
52 the contract awarded to him and who fails within twenty days
53 after notice of award, to execute the required contract and
54 bond, shall forfeit the said check or bond and the said check
55 or bond shall be taken and considered as liquidated damages
56 and not as a penalty for failure of said bidder to execute said
57 contract and bond. Upon the execution of said contract and
58 bond by the successful bidder, his check or bond shall be re-
59 turned to him. The check or bonds of the unsuccessful bid-
60 ders shall be returned to them promptly after the bids are
61 opened and the contract awarded to the successful bidder.

Sec. 31. Whenever it shall be necessary from any cause
2 to acquire any lands for the purpose of constructing, widen-
3 ing, straightening, grading or altering any state road which
4 cannot be acquired at a satisfactory price by purchase or
5 grant, the said commission is hereby empowered to condemn
6 the necessary lands therefor, together with all necessary rights

7 and easements, under the right of eminent domain, or it may
8 proceed as provided in section one hundred and thirty-eight
9 of this act. The cost of all rights of way acquired for any
10 state or county-district road, or roads, or for the purpose of
11 widening, straightening, grading, or altering any such road or
12 roads, shall be paid by the county court of the county in which
13 such road or roads shall lie.

14 If any county court fails or refuses to obtain any right of
15 way necessary for the purpose of constructing, widening,
16 straightening, grading or altering any state road within thirty
17 days after being requested so to do by the state road commis-
18 sion, then the state road commission may secure such right
19 of way in the manner hereinabove provided and pay for the
20 same out of the state road fund, which fund shall be reim-
21 bursed by the county court of the county in which such right
22 of way is obtained. All claims for reimbursement for right
23 of way expenditures incurred by the state road commission
24 subsequent to April twenty-first, one thousand nine hundred
25 and twenty-one, shall be filed by the commission with the clerk
26 of the county court of the county where such expenditures are
27 made, which claims shall be audited and paid as other claims
28 against the county. Such claims shall be payable to the state
29 road commission and returned by it to the state road fund.

Sec. 56. For the purpose of making and maintaining connec-
2 tions between state roads or highways, or the parts of any state
3 road or highway constructed or improved under the provisions
4 of this act, the state road commission shall have the power to
5 build bridges and acquire by purchase, condemnation or other-
6 wise (and to maintain when so acquired), any existing bridges
7 along, in the line of, or connected with any such road or high-
8 way, together with all lands, roads, approaches, rights, fran-
9 chises and easements belonging to any person, firm or corpora-
10 tion, and necessary or convenient for the purpose aforesaid.
11 And the state road commission may purchase or construct and
12 maintain any bridge within a municipality, or may aid any
13 municipality within the state in the purchase or construction, or
14 in the maintenance of any bridge already constructed or in
15 process of construction or which may hereafter be constructed
16 by such municipality. The state road commission may take
17 over any bridge theretofore built by any municipality and ly-
18 ing within its limits and designated by the state road commis-
19 sion as a connecting part of a state road, when requested so to

20 do by the authorities of such municipality, and thereafter
21 maintain the same. In case any bridge within a municipality is
22 wholly maintained by the state road commission, the munici-
23 pality shall, while such bridge is so maintained, be relieved
24 from all liability in connection therewith.

Sec. 67. Any person who in any manner paints or affixes
2 any advertisement, sign, notice, or other written or printed
3 matter, other than notices posted in pursuance of law, on or
4 to any stone, tree, fence, stump, pole, building or other struc-
5 ture, which is in or upon the right-of-way of any public road
6 or highway, except that the commission may provide for suit-
7 able danger signals, shall be guilty of a misdemeanor, and upon
8 conviction thereof, shall be punished by a fine of not less than
9 five dollars nor more than one hundred dollars. The commis-
10 sion is empowered to remove any such signs in place upon
11 any road taken over by it for construction or maintenance.

Sec. 71. The state road commission and such of its em-
2 ployees and servants as are designated by it as special officers
3 for that purpose, shall have authority to enforce all laws of this
4 state relating to highways, and shall have the same authority
5 to make arrests as duly qualified constables as to a violation of
6 the provisions of chapter one hundred and twelve of the acts
7 of the legislature, one thousand nine hundred and twenty-one,
8 regular session, and amendments thereto, and violations of the
9 regulations and orders of the state road commission in relation
10 thereto, including offenses against all laws made for the pro-
11 tection of motor vehicles. Every such employee or servant
12 shall, in exercising any such authority hereunder, wear and
13 display a metallic shield or badge indicating that he is a spe-
14 cial officer of the state road commission; *provided, however*, that
15 no contractor, his employee or servant, shall be permitted un-
16 der this section to make any arrests by virtue of any authority
17 conferred by this section. *Provided, further*, that no person
18 designated by the commission as such special officer shall ex-
19 ercise any authority under such designation until he shall first
20 have executed a bond with security to be approved by the com-
21 mission in the amount of not less than two thousand dollars
22 conditioned for the faithful discharge of his duties and the ac-
23 counting for and paying over, as required by law, of all moneys
24 that may come into his hands by virtue of his said office.

Administration of Vehicle Laws.

Sec. 75. The state road commission shall have charge of the

3 lection of all license fees and charges, forfeitures and costs, and
2 administration of the vehicle laws of this state, including the col-
4 all other fees and charges arising therefrom or incidental thereto,
5 and for that purpose shall have power to employ such assistants,
6 deputies and employees as may be required to carry out the
7 provisions of this act, and to fix their salaries. The commis-
8 sion shall also have power to dismiss or discharge such as-
9 sistants, deputies and employes at its discretion.

10

Definition.

11 Whenever in this act, or in any regulations authorized by this
12 act, the following terms are used, they shall be deemed and
13 taken to have the meanings herein ascribed to them:

14

Vehicle.

15 (a) Any mechanical device for the conveyance, drawing or
16 other transportation of persons or property upon the public
17 roads and highways, whether operated on wheels or runners or
18 by other means, except those propelled or drawn by human
19 power or those used exclusively upon tracks.

20

Truck.

21 (b) Any motor vehicle designed and used for carrying
22 freight or any regularly constructed passenger automobile reg-
23 ularly carrying freight, or any reconstructed motor vehicle
24 used for such purpose.

25

Motor Vehicle.

26 (c) Any self-propelled vehicle not operated exclusively upon
27 stationary tracks, except tractors.

28

Tractor.

29 (d) Any self-propelled vehicle designed or used as a travel-
30 ing power plant or for drawing other vehicles, but having no
31 provisions for carrying loads independently.

32

Trailer.

33 (e) Any vehicle without motive power designed for carry-
34 ing property or passengers, wholly on its own structure, and
35 for being drawn by a self-propelled vehicle, except those run-
36 ing exclusively on stationary tracks.

37

Semi-Trailer.

38 (f) A vehicle of a trailer type so designated and used in con-
39 junction with a self-propelled vehicle that a considerable part
40 of its own weight or that of its load rests upon and is carried
41 by the towing vehicle.

42

Pneumatic Tires.

43

(g) Tires of rubber or other material inflated with air,

44 and depending solely upon confined air, for the sup-
45 port of the load, and tires of rubber or similar elastic
46 material commonly known as "cushion" tires, when des-
47 igned by the state road commission as pneumatic
48 tires.

49

Solid Tires.

50 (h) Tires of rubber or similar elastic material that do not
51-53 depend upon confined air for the support of load.

54

Solid Tired Vehicle.

55 (i) Any vehicle equipped with two or more solid tires.

56

Manufacturer-Dealer.

57 (j) Any person, firm or corporation actively engaged in the
58 manufacture, sale, purchase or exchange of motor vehicles who
59 has an established place of business in this state.

60

Owner.

61 (k) Any person, firm, corporation or association holding
62 title to a vehicle.

63

Operator.

64 (l) Any person who drives or operates a motor vehicle or
65 tractor; except for hire.

66

Chauffeur.

67 (m) Any person who operates for hire, or who receives pay
68 directly or indirectly to operate, any motor vehicle, or tractor
69 upon the public highways.

70

State.

71 (n) The state of West Virginia, or other constitutional unit
72 or a territorial or federal district of the United States.

73

Political Sub-Division.

74 (o) Any county, city, town, or other similar governmental
75 unit of the state.

76

Local Authorities.

77 (p) Representatives of political sub-divisions of the state
78 duly elected or appointed to administer the laws and ordinances
79 of the state.

80

Open Country Highway.

81 (q) A highway, or portion thereof, greater than one-fourth
82 of a mile in length, along either side of which the buildings
83 average more than three hundred feet apart.

84

Urban Street; Suburban Street.

85 (r) An urban street shall be a public road or highway, or
86 portion thereof other than an open country highway, or
87 suburban street. A suburban street shall be a public road, high-

88 way or portion thereof, not less than one-fourth of a mile in
89 length, on either side of which the buildings average less than
90 three hundred feet, but more than fifty feet apart.

Sec. 76. No motor vehicle shall be driven upon the public
2 roads, or upon any road or street within any incorporated city,
3 town or village within the state until the owner first shall have
4 obtained from the state road commission, as herein provided,
5 a license or certificate of registration therefor. An applicant
6 desiring such license or certificate may obtain the same by
7 filing with the commission, by mail or otherwise, a statement
8 setting forth the character of the vehicle to be licensed, in-
9 cluding the name of the manufacturer, the style, color of body,
10 motor numbers, type and factory number of such vehicle, the
11 character of the motor power and the amount of such power
12 stated in figures of horse-power as advertised by the manu-
13 facturer, the name, age, residence and business address of the
14 owner of such motor vehicle, and the name of the county in
15 which he resides; *provided*, that if such motor vehicle is used
16 or to be used in the public transportation of passengers or prop-
17 erty or both for compensation, the applicant shall so certify,
18 and shall, as a condition precedent to the securing of such
19 license or certificate of registration, obtain a certificate of con-
20 venience from the state road commission in the manner here-
21 inafter provided.

Sec. 82. For the purpose of determining the horse-power
2 of any internal combustion engine used to propel, a motor
3 vehicle coming within the provisions of this act, the follow-
4 ing formula shall be used.

5 Multiply the square of the diameter of the cylinders in
6 inches by the number of cylinders, and divide the product
7 by two and one-half.

8 The horse-power of an electric or steam motor shall be
9 taken as the manufacturer's rated horse-power for the indi-
10 vidual motor.

11 The following fees shall be paid to the commission for the
12 certificate of registration and corresponding registration plates
13 issued by it in accordance with the provisions of this act.

14 *Class A.* The registration fee for all motor vehicles, other
15 than trucks or motor vehicles used in the public transporta-
16 tion of passengers or property or both for compensation,
17 equipped only with pneumatic tires, shall be thirty cents per
18 horse-power of motor, and in addition thereto thirty cents per

19 hundred pounds of weight of the vehicle and load, and for the
19-a purpose of determining the weight of a vehicle and load, ex-
20 cept those used in the public transportation of passengers or
21 property, or both, for compensation, the actual weight of the
22 vehicle shall be taken, and in addition thereto the adult seat-
23 ing capacity multiplied by one hundred and twenty-five.

24 *Class B.* The registration fee for motor vehicles equipped
25 with solid rubber tires and used for the transportation of
26 merchandise, supplies, and for any purpose other than the
27 public transportation of passengers or property, or both, for
28 compensation, shall be twenty-five dollars yearly for motor
29 vehicles of one ton or less capacity; fifty dollars yearly for
30 a vehicle of more than one ton and not more than two tons
31 capacity; seventy-five dollars yearly for a vehicle of more
32 than two tons and not more than three tons capacity; one
33 hundred dollars yearly for a vehicle of more than three tons
34 and not more than four tons capacity; and one hundred and
35 fifty dollars yearly for a vehicle of more than four tons and
36 not more than five tons capacity; *provided*, that the manu-
37 facturer's rated capacity for the chassis shall be used in de-
38 termining the capacity of any vehicle licensed under this
39 class. The registration fee for vehicles of the kind enumer-
40 ated under this class but equipped with pneumatic tires shall
41 be three-fourths of the amount of the fee charged when equip-
42 ped with solid tires.

43 *Class C.* The registration fee for vehicles trailed or pro-
44 pelled by any motor vehicle or tractor required to be regis-
45 tered, other than any motor vehicle used in the public trans-
46 portation fo passengers or property, or both, for compensa-
47 tion, shall be five dollars for a vehicle of one ton or less ca-
48 pacity, equipped with tires of solid rubber or steel, and seven
48-a dollars and fifty cents for each additional ton capacity, or
48-b fraction thereof; *provided*, that the registration fee
49 for vehicles trailed or propelled by any motor vehicle used in
50 the public transportation of property or passengers or both
51 for compensation, equipped with tires of solid rubber or steel
52 shall be two times the fee above stated; and *provided*, fur-
53 ther, that the fee in the case of a vehicle equipped only with
54 pneumatic tires shall be one-half that shown for solid rub-
55 ber or metallic tires.

55-a *Class D.* The registration fee for each motor cycle shall
55-b be five dollars yearly, and for each side car attached to a

55-c motor cycle, an additional two dollars and fifty cents yearly.
56 *Class E.* The registration fees for all tractors, traction en-
57 gines and similar vehicles used to propel, support, transport, or
58 draw a trailer, or trailers, or semi-trailer, or semi-trailers,
59 upon the roads of this state, except as herein provided, shall
60 be as follows:

61 For such vehicle having a weight of two tons, or less,
62 twenty dollars; for such vehicle having a weight of not less
63 than two tons nor more than two and one-half tons, twenty-
64 five dollars; for such vehicle having a weight of not less than
65 two and one-half tons nor more than three tons, thirty dol-
66 lars; for such vehicle having a weight of not less than three
67 tons nor more than three and one-half tons, thirty-five dollars;
68 for such vehicle having a weight of not less than three and
69 one-half tons nor more than four tons, forty dollars; for
70 such vehicle having a weight of not less than four tons, nor
71 more than four and one-half tons, forty-five dollars; for such
72 vehicle having a weight of not less than four and one-half
73 tons nor more than five tons, fifty dollars; for such vehicle
74 having a weight of not less than five tons nor more than five
75 and one-half tons, sixty dollars; for such vehicle having a
76 weight of not less than four and one-half tons nor more than
76-a six tons, sixty dollars; for such vehicle having a weight of
76-b not less than six tons nor more than six and one-
77 half tons, eighty dollars; for such vehicle having a weight of
78 not less than six and one-half tons nor more than seven tons,
79 ninety dollars; for such vehicle having a weight of not less
80 than seven tons nor more than seven and one-half tons, one
81 hundred dollars; for such vehicle having a weight of not less
82 than seven and one-half tons nor more than eight tons, one
83 hundred and ten dollars; for such vehicle having a weight
84 of not less than eight tons nor more than eight and one-half
85 tons, one hundred and twenty dollars; for such vehicle hav-
86 ing a weight of not less than eight and one-half tons nor more
87 than nine tons, one hundred and thirty dollars; for such ve-
88 hicle having a weight of not less than nine tons nor more than
89 nine and one-half tons, one hundred and forty dollars; for
90 such vehicle having a weight of not less than nine and one-
91 half tons nor more than ten tons, one hundred and sixty dol-
92 lars; for such vehicle having a weight of more than ten tons,
93 one hundred and eighty dollars. This charge shall not be made
94 in the case of tractors used exclusively for agricultural pur-

95 poses, *provided*, that such rims or other sufficient devices are
96 used on the wheels of such tractors as will protect the roads or
97 highways traveled by them from any unusual damages there-
98 to; *provided, further*, that the owners of such tractors shall
99 be liable for any damages done by them to public roads in
100 excess of that done by ordinary travel thereon; *provided, fur-*
101 *ther*, this charge shall not be made for traction engines and
102-134 rollers used in road construction or maintenance.

135 *Class F.* Each dealer in motorcycles shall pay a fee of
136 ten dollars yearly, in consideration of which he shall receive
137 two sets of registration plates for dealers, and for each addi-
138 tional set of plates such dealer shall pay five dollars. The
139 conditions for use of motor vehicles set forth under class G
140 shall apply also to motor cycles and dealers in the same.

141 *Class H.* No motor or other vehicle shall be operated over
142 any public road or highway or over any street or alley within
143 an incorporated city or town in this state for the public trans-
144 portation of passengers or property or both for compensa-
145 tion until the owner or operator of such vehicle shall have
146 first made application to, and secured from, the state road
147 commission a permit or certificate of convenience to operate
148 such vehicle. For all the purposes of this act a motor ve-
149 hicle shall be deemed to be a motor vehicle operated for the
150 public transportation of passengers or property or both when
151 the owner or operator of such vehicle undertakes to carry pas-
152 sengers or property, or both, for all persons who may choose
153 to employ and compensate such owner or operator, regard-
154 less of the restriction as to the kind or character of service
155 to be rendered either as to passengers or property; such clas-
156 sification shall include taxicabs, bus lines, truck lines and
157 any other indiscriminate transportation of passengers or prop-
158 erty for compensation, without regard as to whether such
159 operation is between fixed termini or over regular routes or
160 otherwise.

161 The application for such permit or certificate shall be in
162 writing and shall contain full information concerning the
163 financial condition and physical property of the applicant, and
164 shall state the capacity of such vehicle or vehicles and the
165 purpose for which the same is to be used; if the service pro-
166 posed is to be over a regular route or between fixed termini,
167 then such route or termini, the rates proposed to be charged,
168 and the proposed schedule or time cards shall be desig-

169 nated; if the service proposed to be rendered is not
170-171 over a regular route or between fixed termini; then such
172 other matters as the state road commission shall from time to
172-a time prescribe, shall be designated. The state road
173 commission shall have the power to issue to any appli-
174 cant a certificate of convenience, or to refuse to issue the same,
175 or to issue it for the partial exercise only of the privilege
176 sought, and may attach to the exercise of the rights given by
177 such certificate such terms and conditions as in its judgment
178 the public convenience and necessity may require. No such
179 certificate of convenience shall be issued by the commission
180 until it shall be established to the satisfaction of the commis-
181 sion, after proper investigation, that the privilege so sought
182 by the applicant is necessary or convenient for the public, and
183 that the service so proposed to be rendered by the applicant
184 is not being adequately performed at the time of such appli-
185 cation by any other person; *provided, however*, that any per-
186 son who has been, prior to the passage of this act, in good faith
187 operating motor vehicles in this state for the public transpor-
188 tation of passengers or property, or both, in accordance with
189 the laws of this state, shall have the right, upon establishing
190 such fact to the satisfaction of the road commission, to ob-
191 tain a certificate of convenience to continue such operation
192 for the remainder of the year one thousand nine hundred
193 and twenty-three, in accordance with the provisions of this
194 act, upon making an application in the manner herein pre-
195 scribed, and upon paying such additional license fees as may
196 hereinafter be required of such class of applicant. If a cer-
197 tificate of convenience be granted for service over a regular
197-a route or between fixed termini, the state road commission
198 shall prescribe the route, territory, schedule, fare or tariff
199 in connection with such service, and in all cases may make such
200 other rules and regulations relative to the operation of such
201 vehicle or vehicles as public justice may demand. When
202 such certificate of convenience is issued, for service over a reg-
202-a ular route or between fixed termini, no such motor vehicle
203 shall change its route, schedule, fares or tariff without the
204 express permission of the state road commission. The owner
205 of or operator under any certificate of convenience shall make
206 such reports and furnish such detailed information with re-
207 spect to the service rendered as the commission shall from
208 time to time direct. The state road commission shall have

209 the power to issue any certificate of convenience for such
210 length of time not in excess of ten years as in its judgment
211 the service proposed and the capital to be invested in such
212 proposed service may justify; *provided, however*, that taxi-
213 cabs and other motor vehicles operated for the public trans-
214 portation of passengers or freight, or both, and not running
215 over a regular route or between fixed termini, or having regu-
216 lar time schedules, shall only be granted such certificates until
217 the first day of January next following; such certificates of
218 convenience may be renewed at their expiration unless for
219 some good cause the commission shall refuse to re-issue the
220 same. Any certificate held, owned or obtained by any person
221 may be sold, assigned, leased, transferred or inherited as
222 other property only upon authorization by the commission.

223 No certificate shall be issued by the state road commission
224 to any applicant until and after such applicant shall have
225 filed with the state road commission a bond with surety ap-
226 proved by the commission or liability insurance satisfac-
226-a tory to the commission, and in such sum as the commission
227 may deem necessary to adequately protect the interest of the
227-a public with due regard to the number of persons and the
228 amount of property involved, which bond shall bind the
229 obligors thereunder to make compensation for injury to per-
230 sons and loss of or damage to property, resulting from the
231 operation of such motor vehicles; *provided, however*, that in
232 all cases where the financial responsibility of the applicant is
233 less than five thousand dollars the state road commission shall
234 require for each such motor vehicle a liability insurance bond
235 in some company duly authorized to do business in this state
236 in at least the sum of one thousand dollars and conditioned
237 as above set forth. The state road commission shall adopt
238 and furnish such rules and regulations as may be found
239 necessary to carry out the provisions of this section.

240 If any applicant for a certificate of convenience shall de-
241 sire to exercise the privilege sought wholly within any city or
242 incorporated town, such applicant shall, before making appli-
243 cation to the state road commission as herein prescribed, apply
244 for and obtain from the city or town council, or other proper
245 authority of such city or incorporated town, a permit author-
246 izing such applicant to make application to the state road
247 commission, and such permit may prescribe such reasonable
248 rules and regulations as the proper authorities of such city or

249 incorporated town may direct with respect to the privilege
250 sought to, insofar as the same may pertain to the stopping
251 and parking of vehicles, zoning, use of one-way streets, kind
252 and character of traffic on certain streets and other like matters
253 affected by local conditions. If the state road commission shall
254 then issue a certificate of convenience to such applicant the
255 rules and regulations as prescribed by such incorporated town
256 or city shall be made a part of and contained in such certificate
257 of convenience; and the state road commission shall in no
258 case issue a certificate to any applicant proposing to render a
259 public service wholly within a city or incorporated town
260 until and after such permit shall have been first obtained by
261 such applicant from the proper authority of such city or in-
262 corporated town.

263 Any person violating any of the provisions of this section
264 shall be guilty of a misdemeanor and upon conviction thereof
265 shall be punished with a fine of not less than five dollars nor
266 more than two hundred dollars, and in addition thereto such
267 certificate of convenience may be suspended or revoked by
268 the state road commission upon the complaint to it of any per-
269 son interested, or by the commission on its own motion after
270 hearing duly had upon at least five days' notice to all parties
271 interested.

272 The holder of any certificate of convenience obtained in the
273 manner aforesaid shall yearly pay the following fees to the com-
274 mission which shall include fees for certificates of registra-
275-276 tion and corresponding registration plates.

277 *Class II-1*—Motor vehicles operated for the public transpor-
278 tation of passengers between fixed termini, or over regular
279 routes, if weighing less than three thousand pounds, shall
280 each be charged and pay one-twentieth of a cent for each pas-
281 senger seat multiplied by the total number of miles that said
282 application shall show will be traveled over any public roads or
283 highways or over any streets or alleys within any incorporated
284 city or town in this state by such motor vehicles during the
285 year for which such license is issued. If such motor vehicles
286 weigh over three thousand pounds and less than seven thou-
287 sand pounds, each shall be charged and pay one-fifteenth of
288 a cent for each passenger seat multiplied by the total number
289 of miles that said application shall show will be traveled over
290 any public roads or highways, or over any streets or alleys
291 within any incorporated city or town in this state by such

292 motor vehicles during the year for which such license is issued.
293 If such motor vehicles weigh over seven thousand pounds, each
294 shall be charged and pay one-tenth of a cent for each passen-
295 ger seat multiplied by the total number of miles that said
296 application shall show will be traveled over any public roads
297 or highways, or over any streets or alleys within any incor-
298 porated city or town in this state by such motor vehicles
299 during the year for which such license is issued.

300 *Class H-2.* Motor vehicles operated for the public trans-
301 portation of property between fixed termini, or over regular
302 routes, if of three tons or less carrying capacity,
303 shall each be charged and pay one-tenth of a cent
304 per each ton mile multiplied by the total number of miles that
305 said application shall show will be traveled by such motor
306 vehicles over any public roads or highways or over any
307 streets or alleys within any incorporated city or town in this
308 state during the year for which such license is issued. If
309 such motor vehicle be over three tons and less than
310 five tons carrying capacity, each shall be charged
311 and pay one-fifth of a cent per each ton mile multiplied by
312 the total number of miles that said application shall show
313 will be traveled by such motor vehicle over public roads or
314 highways or over any streets or alleys within any incorporated
315 city or town in this state during the year for which such
316 license is issued.

317 *Class H-3.* Motor vehicles operated for the public trans-
318 portation of passengers not running over a regular route or
319 between fixed termini shall each be charged and pay seventy-
320 five dollars yearly. Ambulances and hearses used exclusively
321 in their work, shall be exempted from the above special
322 fee.

323 *Class H-4.* Motor vehicles operated for the public transpor-
324 tation of property not running over a regular route or between
325 fixed termini, shall each be charged and pay a fee of double
326 that of trucks not used commercially. No license fee or tax
327 other than that prescribed in this section shall be charged by
328 the state or any municipality or other political sub-division
329 thereon, except the regular property tax, with respect to such
330 vehicles and the operation.

Sec. 83. The license or registration fees herein prescribed shall be for the entire calendar year; *provided*, that where application is made therefor between the first day of April and the thirtieth day of June, inclusive, in any year, the charge therefor shall be three-fourths of the sum charged for such yearly license; and where application for such license and registration is made between the first day of July and the thirtieth day of September inclusive, of any year, the sum charged therefor shall be one-half of the sum charged for a yearly license and where application for such license and registration is made after the thirtieth day of September in any year, one fourth of such yearly license shall be charged, and in all cases where a license is issued after the thirtieth day of September in any year there shall be paid in addition to the license herein provided for the additional sum of one dollar; and, *provided, further*, that in all cases where additional license fees are required under the provisions of this act, as amended, for the balance of the year one thousand nine hundred and twenty-three, the payment already made for license or registration fees for the year one thousand nine hundred and twenty-three shall be credited on such additional license fees.

In the event of the loss or inadvertent destruction of any plate issued under the provisions of this act, the commission shall investigate the circumstances of alleged loss or destruction, and if satisfied that the loss or destruction has occurred as alleged, shall issue a duplicate, or duplicates, or may in its discretion issue a new set of plates with appropriate certificate of registration, at a cost not to exceed one dollars. In the event of the loss or inadvertent destruction of any certificate of registration issued under the provisions of this act, the commission may issue a duplicate upon receipt of affidavit of such loss at a cost not to exceed one dollar.

The registration certificates, and the right to use the corresponding registration plates shall expire at midnight of December thirty-first of the year for which issued.

Upon the destruction or permanent removal from the state of any registered motor vehicle, its certificate of registration and the right to use the number plates or markers thereon shall expire; *provided*, that the commission shall permit the person to whom such certificates and plates or markers were originally

41 issued to surrender the same, and shall allow to him a refund
42 of the amount paid for registration markers and certificate for
43 the quarterly periods remaining wholly unexpired.

44 Upon the transfer of ownership of any motor vehicle, its cer-
45 tificate of registration and the right to use the number plates or
46 markers shall expire, and it shall be the duty of the original
47 owner to immediately notify the commission of the name and
48 address of the new owner, and to deliver to the purchaser the
49 license certificate and plates or markers belonging thereto. It
50 shall be the duty of the purchaser immediately to file with the
51 commission an application for a transfer of such registration
52 accompanied with said certificate, for which the commission shall
53 issue a transfer certificate and charge a fee of one dollar. If
54 such license certificate be not filed the purchaser shall be charged
55 a fee of two dollars for said license transfer certificate.

56 Any person who shall obtain a registration certificate or regis-
57 tration plates, or other licenses provided for in this act, by mis-
58 representation or by any other method not authorized by law,
59 and any person who shall violate any of the other provisions of
60 this section shall be guilty of a misdemeanor, and such person
61 upon conviction thereof, shall be punished with a fine of not less
62 than ten dollars, nor more than fifty dollars, and may be there-
63 after refused a license or certificate of registration. Said pen-
64 alty shall apply to the owner as well as to the operator of such
65 vehicle.

Sec. 93. There shall not be operated on any road or highway
2 in this state any vehicle whose width, including load, is greater
3 than ninety inches (except traction engines, whose width shall
4 not exceed one hundred and eight inches, and wagons and
5 other vehicles of farmers when hauling hay, straw, fodder or
6 other farm products on the roads, or when on the roads with
7 farming implements,) or which has a greater height than twelve
7-a feet, or a greater length than forty feet, and no combina-
7-b tion of vehicles coupled together shall be so operated whose
7-c total length including load, shall be greater than sixty
8 feet; *provided*, that in special cases vehicles whose dimensions
9 exceed the foregoing may be operated under permits granted as
9-a hereinafter provided.

10 No vehicle, whose gross weight, including load, is more than
11 twenty thousand pounds; no vehicle including load having
12 a greater weight than seventeen thousand pounds on any one

13 axle; no vehicle, including load, having a greater weight than
14 nine thousand pounds on any one wheel; and no vehicle, includ-
15 ing load, having a weight upon any one wheel of more than six
16 hundred pounds per inch width of tire in actual contact with
17 the road surface, shall be operated upon any road or highway in
18 this state; *provided, however*, that there may be operated upon
19 any road, tractors equipped with caterpillar tread, together with
20 trailer, trailers, semi-trailer, or semi-trailers, whose combined
21 weight, including load, shall not exceed eleven tons; and, *pro-*
22 *vided, further*, that in special cases, vehicles, including load, ex-
22-a ceeding the weight herein described, may be operated under
22-b special permits granted as hereinafter provided.

22-c Any person, firm or corporation who shall operate or cause to
22-d be operated on any highway in this state a vehicle whose size or
23 weight exceeds that herein prescribed, shall be guilty of a mis-
24 demeanor, and upon conviction thereof shall be punished with
25 a fine of not less than one hundred, nor more than five hundred
26 dollars, for the first offense, and not less than five hundred dol-
27 lars, nor more than one thousand dollars for any subsequent
28 offense and in addition thereto the license of such person, firm
29 or corporation shall be revoked as provided in section eighty-
30 nine of chapter one hundred and twelve of the acts of the leg-
31 islature of one thousand nine hundred and twenty-one.

Sec. 94. The special permit herein required for the opera-
2 tion of a vehicle whose size or weight, with load, exceeds the
3 limits prescribed in this act, shall be in writing, and be issued
4 at the discretion of the commission, or of those officials in the
5 state's political sub-division who have charge of the high-
6 ways, roads, streets, alleys and bridges over which such vehicle
7 is to operate. Such permit may be issued for a single trip or
8 for a definite period not beyond the date of the expiration of
9 the vehicle registration, and shall designate the roads and
10 bridges to be used. Any person operating a vehicle under such
11 permit shall pay to the commission or other authorities having
12 charge of the maintenance of said roads or bridges, the amount
13 of any and all damages that may be caused to any road or
14 bridge by reason of the operation of such vehicle thereon,
15 and the possession of such permit shall not relieve any person
16 from the liability for such damage. The commission or other
17 authority granting such permit shall require from the person
18 or corporation receiving same a bond with satisfactory security
19 conditioned upon the proper repair of all damages done the

20 roads or streets over which such vehicle is operated. The com-
 21 mission or other authority granting such permits, may also
 22 prescribe such rules and regulations governing the use of
 23 vehicles requiring a special permit under this section as may be
 24 necessary to protect the roads and streets over which same are
 25 operated from unusual damages therefrom. A violation by
 26 any person or corporation having a permit, of the rules and
 27 regulations so prescribed, shall be sufficient cause for the revoca-
 28 tion thereof.

29 No vehicle of the kinds and weights enumerated in this sec-
 30 tion shall be operated on the open country highways, suburban
 31 streets, or urban streets in this state, at a greater rate of speed
 32 than that prescribed in section ninety-five of chapter one hun-
 33 dred and twelve of the acts of the legislature, one thousand
 34 nine hundred and twenty-one, regular session.

Sec. 95.

Maximum Weight, Including Gross Weight of Vehicle and Load:	On Open County Highway	On Suburban Street	On Urban Street
	Miles Per Hour	Miles Per Hour	Miles Per Hour
3 Vehicles designed for carrying not			
4 more than 7 passengers, 6000 lbs.	35	25	15
5 Other vehicles equipped with pneu-			
6 matic tires	25	20	15
7 Vehicles equipped with solid tires			
8 less than 4000 pounds	15	10	10
9 Over 4000 pounds	10	10	10
10 Steel-tired vehicles over 2000 lbs.	5	5	5

11 Any person who shall operate on any highway in this state a
 12 vehicle whose size or weight exceeds that herein prescribed or at
 13 a greater rate of speed than therein allowed, shall be guilty of a
 14 misdemeanor, and upon conviction thereof shall be punished
 15 by a fine of not less than ten dollars, nor more than fifty dollars,
 16 and may be confined in the county jail for fifteen days, or by
 17 both fine and imprisonment in the discretion of the court for the
 18 first offense; and for a second or subsequent offense he shall be
 19 punished with a fine of not less than fifty dollars, nor more than
 20 two hundred dollars, and shall be confined in the county jail not
 21 less than thirty days nor more than sixty days, and his license
 22 shall be revoked as provided in section eighty-nine of chapter
 22-a one hundred and twelve of the acts of the legislature of one
 22-b thousand nine hundred and twenty-one.

23 The trial court shall assess as a part of the costs in the case a

24 special fee of two dollars for the officer making the arrest and
25 conviction for any violation of the automobile laws of this state.
26 *Provided, further,* that a transcript of the record from the
27 docket of the trial court covering every violation of the motor
28 vehicle laws of this state, shall be made up and transmitted to
29 the automobile department of the state road commission, by such
30 trial court.

31 *Provided, further,* that at the request of the state road com-
32 mission it shall be the duty of the department of public safety,
33 its officers and state police, the sheriffs of the several counties of
34 the state, and duly elected or appointed constables and deputies,
35 justices of the peace, mayors of cities and towns and city police,
36 to render to the commission all necessary aid and assistance in
37 the performance of its duties of maintaining and properly
38 policing the roads of this state, as the requirements of their
39 respective offices and positions will permit, without extra charge
40 of compensation for such service to the state.

Sec. 104. The county court of any county may contract or
2 pay for making, improving and keeping in order the whole or
3 any part of any county-district road within the county. The
4 court may permanently improve by the use of asphaltum, con-
5 crete, brick, stone, block, or by macadamizing or other process
6 of equal merit, the county-district road within its county, and
7 may contract therefor with any contractor for the use of any
8 of the foregoing systems and take bonds and security in a
9 penalty equal to fifty per centum of the estimated cost of the
10 work in question, from any such contractor for the faithful
11 performance of his contract.

12 The county court shall have authority to designate as a con-
13 necting part of a county-district road any street, or portion of
14 a street, in any incorporated city, town or village, and may
15 expend money and labor, thereon as far as may be necessary
16 to put the same in good condition, and the municipality shall
17 thereafter maintain the same in good condition; but in case
18 such municipality is financially unable to maintain the same in
19 good condition, or to construct and maintain any bridge on any
20 county-district road within its corporate limits, the county
21 court shall construct and maintain the same, or aid in con-
22 structing and maintaining the same to the extent that may be
23 necessary in order to supplement the funds of the municipality
24 available or that may be made available for that purpose. A
25 county court may purchase or construct and maintain, or may

26 aid any municipality within the county in the purchase or
27 construction and in the maintenance of any bridge already
28 constructed or in process of construction or which may here-
29 after be constructed by such municipality, whether such bridge
30 be located or intended for location wholly within the county
31 or across the boundary thereof. The county court of any
32 county may take over any bridge, road or street theretofore
33 built by any municipality and lying within its limits and desig-
34 nated by the county court as a connecting part of a county-
35 district road, when requested so to do by the authorities of such
36 municipality, and thereafter maintain the same.

Sec. 123. Such superintendent shall have general police
2 supervision over all county-district roads within his magisterial
3 district; including the streets and alleys of unincorporated
4 villages, and shall have the same authority to make arrests as
5 duly qualified constables as to the violations of the provisions
6 of chapter one hundred and twelve of the acts of the legislature,
7 one thousand nine hundred and twenty-one, regular session,
8 and amendment thereto, and violations against the laws enacted
9 for the protection of motor vehicles. He shall have authority
10 to require abutting property owners to remove, and keep re-
11 moved, all garbage, refuse, and filth of every kind and charac-
12 ter that may accumulate on said streets and alleys, and order
13 opened any street or alley on any town plat which is of record
14 in the clerk's office of the county court.

Sec. 138. Upon hearing the parties interested in an applica-
2 tion for a county-district road, said county court shall decide for
3 or against undertaking the proposed work on behalf of the
4 county. If it decides in favor of the same and the compensation
5 for damages, if any, to be paid to any proprietor or tenant be
6 not fixed by agreement, it shall order proceedings to be instituted
7 and presented in its corporate name in the circuit court of the
8 county, pursuant to chapter forty-two of the code of West Vir-
9 ginia, to ascertain what will be a just compensation, if any, to
10 each proprietor or tenant for the land proposed to be taken, and
11 the said court shall lay a sufficient levy for that purpose. But
12 when such compensation, if any, shall be so ascertained, it shall
13 be at the option of the county court to pay the same or to aban-
14 don the proposed undertaking. If it decides to pay the same, it
15 shall lay a sufficient levy for that purpose as provided in this
16 act. In any case where the petition is for the establishment or

17 alteration of a county-district road leading from the main public
18 road or roads, the court may refuse to undertake the proposed
19 work, unless the petitioner or some one for him, shall deposit
20 with said county court a sufficient sum to pay all damages and
21 costs sustained by reason of the establishment or alteration of
22 such road. In such case, if it seems proper so to do, the court
23 may establish any such road, upon conditions that the petitioner
24 shall pay all costs and damages as aforesaid, and make and keep
25 in repair such road, and erect and maintain in good repair one
26 or more gates across such road where the road passes through a
27 fence or fences, as is provided in section one hundred and sixty-
28 nine of this act; and the court may also impose upon such peti-
29 tioner, his heirs or assigns, and upon the public such other con-
30 ditions in reference to such road as the court may deem just.
31 In the event that any of the conditions, so imposed by the court
32 are not fully complied with, the court at any time, after giving
33 at least sixty days' notice to the public and to the petitioner, his
34 heirs or assigns, in such manner as the court may prescribe, may
35 discontinue or abandon such road.

36 But the court, instead of proceeding in the manner hereinbe-
37 fore provided in this section, is authorized to enter upon any
38 lands, other than those prohibited by law, and locate and build
39 said roads. Within sixty days after such entry the county court
40 shall petition the circuit court to nominate thirteen freeholders,
41 and the said circuit court, or the judge thereof in vacation, shall
42 nominate, within thirty days after the filing of such petition,
43 thirteen freeholders, of whom the county court shall strike off
44 four and the property owners or their representatives, or such of
45 them as appear, shall strike off four, and after eight names are
46 stricken from the list the remaining five shall be commissioners.
47 appointed to assess the damages hereinafter provided. But
48 where there is no appearance for the property owners, or if they
49 appear and do not agree as to any one or more of the names
50 to be stricken off on their behalf, or the right to strike off any
51 one or more names is waived on the part of either of the prop-
52 erty owners, or their representatives, or from any cause the full
53 number shall not be stricken off by the court or the parties afore-
54 said, the names or additional names, as the case may be, to be
55 stricken from the list in order to reduce the number to five,
56 shall be ascertained by lot under the direction of the court.

57 Vacancies shall be filled, and any commissioner, for good cause
58 shown, may be removed by the court.

59 The said commissioners shall go upon the land and
60 assess the damages and benefits, taking into consideration the
61 benefits accruing to the property and the damages to it sustain-
62 ed, and shall fix the compensation or damages as said commis-
63 sioners may seem proper, and the amount so fixed shall be paid
64 out of the road fund of the county or district at the dis-
65 cretion of the court.

66 If the damage so assessed be not satisfactory to the property
67 owner or owners, proprietor or tenant, or to the court, he or
68 they, or said court, may within six months after the assessment
69 aforesaid, appeal or apply to the circuit court of the county and
70 demand a trial therein, as in other condemnation proceedings;
71 *provided, however*, before entering upon said land as authorized
72 by this section, it shall be the duty of the county court or its
73 representative to serve notice upon the owner or owners of said
74 land, as provided by law, notifying such owner or owners that
75 the road is to be located upon their land under the authority of
76 this section; *provided, however*, that when a state road shall be
76-a located by the state road commission, in, upon or through
76-b any property owned or controlled by the state, no compensa-
76-c tion shall be paid for such right-of-way. Any person who
77 shall obstruct said road while in process of construction or re-
78 pair, or interfere with the engineer or other persons in charge
79 of said work or construction, their agents or employes, shall
80 be guilty of a misdemeanor and upon conviction thereof shall
81 be fined not to exceed fifty dollars, and may be imprisoned
82 not to exceed one month, or both, in the discretion of the court.

83 In any proceeding authorized by this section, the revenues
84 applicable to the payment of any damage assessed shall be
85 deemed sufficient security, and to have been pledged for the
86 payment thereof.

87 After a public road has been established and constructed
88 heretofore or hereafter and used as such for a period of one year,
89 and no claim for damages or compensation has been made, the
90 right-of-way for such road shall vest in the county court or the
91 state, as the case may be, and they shall not be liable for damage
92 or compensation arising out of the construction of said road.

Sec. 146. Whenever, in the judgment of the state road com-
2 mission or the county court of any county, the safety of the

3 traveling public demands it, the state road commission as to state
 4 roads and bridges may construct and maintain sidewalks along
 5 the side or sides thereof, and the county court as to county-
 6 district roads and bridges may construct and maintain side-
 7 walks along the side or sides thereof, or any person or persons
 8 who may desire to do so, with the permission of the state road
 9 commission as to state roads, and the county court as to county-
 10 district roads, may build a sidewalk, composed of plank, gravel,
 11 concrete or other suitable material, along the side of any public
 12 road in this state; *provided*, that the construction and repairing
 13 of sidewalks constructed and maintained by persons authorized
 14 by the state road commission or county court do so and the use
 15 thereof shall be without expense of any kind to the public or any
 16 persons who may want to use the same; *provided, further*, that
 17 all persons who may desire, be permitted to use the same and
 18 that said sidewalk does not in any way interfere with the travel-
 19 ing public on any public road; and such sidewalk shall be remov-
 20 ed if ordered by the commission or by the county court as the
 21 case may be; *provided, further*, that if it is desired to build any
 22 sidewalk in a city or incorporated town, the consent of the council
 23 of such city or town shall be obtained before such walk is built.
 24 All acts and parts of acts inconsistent or in conflict herewith
 25 are hereby repealed.

CHAPTER 7

(Senate Bill No. 65—Mr. Darnall)

AN ACT to amend and re-enact section sixty-three of chapter two of the acts of the legislature, one thousand nine hundred and nineteen, regular session, relating to display of United States flag on schoolhouses.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the Governor's approval.]

Sec. 63. United States flags, display of: } penalty for failure; person liable.

Be it enacted by the Legislature of West Virginia:

That section sixty-three of chapter two of the acts of the legislature, one thousand nine hundred and nineteen, be amended and re-enacted so as to read as follows:

Section 63. Every board of education shall, out of the building fund, purchase United States flags, four by six feet, of regulation bunting, for schoolhouses in their district, and require same to be displayed from the schoolhouses during the time the school is in session, except in inclement weather. And

6 it shall be the duty of the teacher, custodian or other person in
 7 charge of said building during the session to see that this flag
 8 is displayed on the schoolhouse as herein provided, and for
 9 failure to comply with this duty, such person in charge shall
 10 forfeit the sum of fifty cents per day for each day such failure
 11 shall continue, payable from the salary of such person to the
 12 building fund.

CHAPTER 8

(Senate Bill No. 70—Mr. Suddarth)

AN ACT to amend and re-enact section one hundred and sixty-eight of chapter two of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to the West Virginia industrial school for boys.

[Passed April 27, 1923. In effect from passage. Approved by the Governor
 May 1, 1923]

Sec. 168. Payment for cost of detention; re- | same; how appropriated; acts
 imbursement; income from | in conflict repealed.

Be it enacted by the Legislature of West Virginia:

That section one hundred and sixty-eight of chapter two of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to the West Virginia industrial school for boys, be and the same is hereby amended and re-enacted so as to read as follows:

Section 168. The county court of every county shall pay into
 2 the state treasury the sum of fifty dollars a year on account
 3 of each youth from the county who shall be received in said
 4 school of the first, second or third classes mentioned in section
 5 one hundred and sixty-three, or, on proper commitment, on any
 6 other class. But in all cases of youths received in said school
 7 of the first class mentioned in section one hundred and sixty-
 8 three, the parent, if of sufficient means, and the guardian where
 9 the youth has sufficient estate, shall annually reimburse the
 10 county the amount paid into the state treasury, by virtue of
 11 this section, on account of such youth mentioned in the first
 12 class of section one hundred and sixty-three, and the county
 13 court of such county shall have a right to recover the same of
 14 such parent or guardian in any court of competent jurisdiction.
 15 The income derived from the payment of such costs of detention
 16 is hereby appropriated for the current expenses of the said
 17 school subject to the requisition of the state board of control.

18 All acts and parts of acts in conflict with the provisions of
 19 this act are hereby repealed.

CHAPTER 9

(Senate Bill No. 71—Mr. Arnold)

AN ACT to provide supplemental aid for districts that provide public schools for children from orphan homes and benevolent institutions.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC. 1. State superintendent of schools | of; how distributed; per capita
required to apportion; amount | for purpose; how determined.

Be it enacted by the Legislature of West Virginia:

The state superintendent of schools is hereby required to
2 apportion supplemental aid to any district or independent dis-
3 trict in which is located any institution as a home for orphans
4 or homeless children. The amount of such supplemental aid
5 shall be equal to the product of the per capita cost of education
6 for the preceding year and the total number of pupils from
7 such children's homes enrolled in the public schools of the
8 district applying for such aid and shall be distributed in the
9 manner prescribed for distribution of supplemental aid to other
10 districts, according to section seven, chapter one hundred and
11 twenty-six, acts of the legislature one thousand nine hundred
12 and nineteen.

13 The per capita cost of education for this purpose shall be
14 determined on the basis of the enrollment in the elementary and
15 high schools and the total expenditures for elementary and
16 high school teachers and maintenance funds.

CHAPTER 10

(Senate Bill No. 225—Mr. Hugus)

AN ACT to amend section nine of chapter forty-five of Barnes' code of one thousand nine hundred and sixteen, as amended by chapter two of the acts of one thousand nine hundred and nineteen, regular session, by adding thereto sections nine-a, nine-b, nine-c, and nine-b, making it the duty of the state board of education to prescribe courses in history of the United States, civics and the constitutions of the United States and West Virginia.

[Passed April 24, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.		SEC.	
9-a.	History, civics and constitutions to be taught in all schools; state board of education to prescribe courses for public school.	9-c.	Penalty for violation.
9-b.	Officials of private, parochial and denominational schools to pre-	9-d.	Holding unconstitutional any provisions not to affect other provisions.
			scribe similar courses.

Be it enacted by the Legislature of West Virginia:

That chapter forty-five of Barnes' code of one thousand nine hundred and sixteen, as amended by chapter two of the acts of one thousand nine hundred and nineteen, regular session, be and is hereby amended by adding thereto sections nine-*a*, nine-*b*, nine-*c* and nine-*d* to read as follows:

Section 9-*a*. In all the public, private, parochial and denominational schools located within the state of West Virginia there shall be given regular courses of instruction in history of the United States, in civics and the constitutions of the United States and the state of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the state of West Virginia. The state board of education shall prescribe, with and on the advice of the state superintendent of schools, the courses of study covering these subjects for the public elementary and grammar schools, public high schools and the state normal schools.

Sec. 9-*b*. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe similar courses of study for the schools under their control and supervision, as is required by the preceding section for the public schools.

Sec. 9-*c*. Any person or persons violating the provisions of sections nine-*a* and nine-*b*, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. If the person or persons so convicted occupy a position in connection with the public schools, he or she or they shall also automatically be removed from said position or positions and be ineligible for re-appointment to that or a similar position for the period of one year.

Sec. 9-*d*. The holding of any of the provisions of sections nine-*a*, nine-*b*, and nine-*c* to be void, ineffective or unconstitutional for any cause, shall not be deemed to affect the validity of any of the other provisions thereof.

CHAPTER 11

(Senate Bill No. 231—Mr. Arnold)

AN ACT creating a public school commission.

[Passed April 27, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

- | | |
|---|--|
| Sec.
1. Creates public school commission; who shall compose term; compensation; appointment by governor.
2. Duties. | Sec.
3. Powers.
4. Commission to make report; employ secretary.
5. Vacancies; how filled. |
|---|--|

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a public school commission to be composed of seven members, not more than four of whom shall belong to the same political party, whose term shall be for two years, who shall serve without compensation, and who shall be appointed by the governor within thirty days after this act takes effect.

Sec. 2. It shall be the duty of the commission hereby created to study and investigate the laws and conditions in this state relating to the public school system, including all educational institutions which are supported by or receive aid from the state, and such other subjects and conditions as it finds in the course of its examination to be connected therewith.

Sec. 3. In the conduct of its investigation the commission shall have power to summon any teacher, principal, officer or any person or persons having supervision or control over any free school or educational institution herein defined, and to compel by subpoena, the production of any books, papers and documents it may deem necessary in its investigation, at any designated place of hearing; and for this purpose may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses, and the production of papers, books and documents.

Sec. 4. The commission shall make a comprehensive report of the results of its investigations, together with its recommendations, to the next session of the legislature, and shall prepare such bills as may be necessary to carry out its recommendations and submit them with its report. It may employ a secretary and such office held as shall be necessary and may from time to time secure such expert advice as it may deem advisable and may incur such necessary expenses in that connection as may be approved by the governor; but in no case shall the commission incur any expenses beyond the amount of money appropriated by the legislature for this purpose.

Sec. 5. Any vacancies that may occur in the commission shall be filled by the governor.

CHAPTER 12

(House Bill No. 168—Mr. Hood)

AN ACT to authorize school districts or independent school districts in which a majority of the ballots cast at the general election held in the year one thousand nine hundred and twenty-two upon the question of authorizing a levy for the support of free schools were against such a levy, to hold special elections for the purpose of again submitting the question of authorizing a levy for school purposes.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Board of education authorized to call special levy for school purposes; when and under what conditions; ballot, etc.

Be it enacted by the Legislature of West Virginia:

Sec. 1. That the board of education of any district, or independent school district in which the majority of the ballots cast at the general election held in the year one thousand nine hundred and twenty-two, and likewise at any election hereafter to be held, upon the question of authorizing a levy for the support of the free schools were against the authorizing of such levy, shall have authority to call a special election for the purpose of submitting to the voters of such district or independent school district the question of authorizing a levy for school purposes. *Provided*, not more than one such special election shall be held in any one year.

The special election herein provided for shall be held as provided in section one hundred and eighty-four of chapter two of the acts of the legislature, one thousand nine hundred and nineteen, regular session, and the ballot to be voted at said election shall have printed thereon the following:

- Ballot on school levy.
 () For school levy.
 () Against school levy.

If a majority of the ballots cast at such special election in any district or independent school district be in favor of school levy, the board of education of such district shall annually thereafter levy for the support of schools in their districts in the manner provided by law for school levies until such time as an election may again be held on the question of school levy as provided by chapter sixteen of the acts of the legislature at its regular session held in the year one thousand nine hundred and twenty-one.

CHAPTER 13

(House Bill No. 515—Mr. Ash)

AN ACT to amend chapter forty-five of Barnes' code of one thousand nine hundred and sixteen as amended by chapter two of the acts of one thousand nine hundred and nineteen, regular session, by adding thereto section eighty-six-a, requiring all teachers to take an oath of allegiance to support the constitution of the United States before being qualified to teach a term of school.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

<p>SEC. 86-a. Teacher; oath required; penalty; secretary of board guilty</p>		<p>of misdemeanor if payment is made to teacher who has not taken oath.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter forty-five of Barnes' code of one thousand nine hundred and sixteen as amended and re-enacted by chapter two of the acts of one thousand nine hundred and nineteen, regular session, be and the same is hereby amended by adding thereto section eighty-six-a to read as follows:

Section 86-a. Every teacher shall at the time of signing the 2 the yearly contract to teach take the following oath, that is to 3 say: an oath to support the constitution of the United States 4 and the constitution of the state of West Virginia, and to 5 honestly demean himself or herself in the teaching profession, 6 and to the best of his or her ability execute his or her position 7 of teacher; said oath shall be taken before a notary authorized 8 to take oaths, or by a school trustee or member of the board of 9 education of the district in which said contract is made. *Pro-* 10 *vided, further,* that no trustee or member of the board of edu- 11 cation shall charge for the taking of said oath. If any such 12 teacher enter upon the discharge of the duties pertaining to 13 his or her employment without having taken the prescribed 14 oath, he or she as the case may be shall be guilty of a misde- 15 meanor and liable to a fine of not less than five dollars nor 16 more than twenty dollars, each month to be classed as a separate 17 offense; and further, if the secretary of the board of education 18 issue and deliver an order or draft to any teacher in payment of 19 his or her compensation, without the said oath having been filed 20 beforehand in his said office, he shall be guilty of a misdemeanor 21 and liable to a fine of not less than ten dollars nor more than 22 twenty dollars; and the order so issued and delivered to said 23 teacher shall be illegal, invalid and of no effect.

CHAPTER 14

(Senate Bill No. 118—Mr. Coffman)

AN ACT to authorize counties, magisterial districts, municipal corporations, school districts, and independent school districts, to become indebted by the issuing and sale of bonds.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 2, 1923]

Sec.	Sec.
1. County courts, magisterial districts, etc. to issue bonds on conditions set out in other sections.	19. Tax to be imposed to pay interest on bonds.
2. Bonds to issue when.	20. Sale of bonds.
3. Limit bond issue.	21. Proceeds of bonds; application of same.
4. Provisions for referendum.	22. Authority for bonds; publication necessary; how made.
5. Investigation by county road engineer before issuance of road or bridge bonds.	23. Bonds made negotiable paper and incontestable.
6. Order to disclose purpose and amount of.	24. Notice to attorney general; attorney general to pass upon validity; publication of notice, how made; taxpayer may present petition to supreme court for reversal; bond to be furnished by petitioner, with whom filed, amount of same; hearings; when amount of same; hearings; when action of attorney general shall be final; bond issue to be incontestable; endorsement upon bonds by attorney general; expense to be paid by authority issuing bonds; attorney general to keep record of findings.
7. Elections for bond issue; when held.	25. This act not to affect proceedings heretofore begun; same to be completed under former statute.
8. Notice.	26. Repealing certain acts in conflict; exceptions to repealer.
9. Registration of voters.	
10. Elections, where held.	
11. Duties of recorders and secretaries in bond elections for municipalities, etc.	
12. Form of ballot.	
13. Returns.	
14. Provisions for issuance of bonds.	
15. Form of resolution authorizing bonds.	
16. Character of bonds.	
17. Bonds may be registered; interest; conversion of bonds.	
18. Signature on bonds.	

Be it enacted by the Legislature of West Virginia:

Section 1. Any county, by and through its county court, either for and on behalf of the county or for and on behalf of any magisterial district, or group of magisterial districts therein; any municipal corporation, by and through its council or other governing body in lieu thereof; any school district, by and through its board of education or any independent school district by and through its board of education or other fiscal body in lieu thereof, may issue and sell its bonds, in the manner, and subject to the limitations and conditions hereinafter contained in this act.

Sec. 2. Debt may be incurred and bonds issued under this act for the purpose of acquiring, constructing and erecting, enlarging, extending, re-constructing or improving any building, work, utility or undertaking, or for furnishing, equipping and acquiring or procuring the necessary apparatus for any building, work, improvement or department, and for other similar corporate purpose, for which the political division is authorized to levy taxes or expend public money. But no bonds shall be

9 issued for the purpose of providing funds for the current ex-
10 penses of any body or political division. Interest accruing dur-
11 ing the construction period, that is to say, the time when an
12 improvement is under construction and six months thereafter,
13 shall be deemed a part of the cost of the improvement, and shall
14 not be deemed current expenses. All engineering and inspec-
15 tion costs, including a proper proportion of the compensation,
16 salaries and expenses of the engineering staff of the political
17 division properly chargeable to any work of improvement, as
18 determined by the governing body, or the estimated amount of
19 such costs, shall be deemed part of the cost of an improvement.
20 All costs and estimated costs of the issuance of bonds shall be
21 deemed a part of the cost of the work or improvement, or of the
22 property, or the carrying out of the purposes for which bonds
23 are to be issued. The power to acquire or construct any build-
24 ing, work or improvement, shall be deemed to include the power
25 to acquire the necessary lands, sites and rights of way therefor.
26 Bonds may be also issued under this act for the purpose of
27 refunding the bonds of any political division which have be-
28 come or are becoming due and payable, for the discharge of
29 which there are or will be when the bonds mature no funds or
30 insufficient funds available; or when in the opinion of the gov-
31 erning body of the political division obligated to the payment
32 of such bonds, the rate of levy necessary to provide funds for
33 their discharge will impose excessive taxes upon the taxpayers
34 of such political division.

Sec. 3. No political division herein authorized to issue bonds,
2 shall, by any bond issue, become indebted to an amount, includ-
3 ing all other indebtedness, exceeding two and one-half per
4 centum of the value of the taxable property therein, as shown
5 by the last assessment thereof for state and county purposes
6 next prior to the issuing of said bonds. *Provided, however,*
7 that any county, magisterial district, or any group of magisterial
8 districts, for the construction of any county-district road, or
9 bridges thereon, and any municipal corporation of one thousand
10 inhabitants or more, for the purpose of grading, paving, sewer-
11 ing, and otherwise improving its streets and alleys, may become
12 indebted and issue bonds in an additional sum not exceeding
13 two and one-half per centum of the value of the taxable prop-
14 erty therein, ascertained as aforesaid.

15 The term "sewering" as used herein shall be treated in a

16 comprehensive sense, so as to include all mains, laterals, con-
17 nections, traps, incinerating and disposal plants, and other nec-
18 essary and convenient accessories to a modern, sanitary and effi-
19 cient sewerage system; and shall include storm sewers.

Sec. 4. No debt shall be contracted or bonds issued under
2 this act until all questions connected with the same shall have
3 been first submitted to a vote of the qualified electors of the
4 political division for which the bonds are to be issued, and shall
5 have received three-fifths of all the votes cast for and against
6 the same. The governing authority of any political division
7 herein referred to may and when requested so to do by a peti-
8 tion in writing, praying that bonds be issued and stating the
9 purpose and amount thereof, signed by the legal voters of the
10 political division equal to twenty per cent of the votes cast in a
11 county or magisterial district for governor, or in a municipal
12 corporation or school district, for mayor or member of the board
13 of education, as the case may be, shall, by order entered of
14 record, direct that an election be held for the purpose of sub-
15 mitting to the voters of the political division, all questions con-
16 nected with the contracting of debt and the issuing of bonds.
17 Such order shall state:

18 (a) The necessity for issuing the bonds, or, if a petition has
19 been filed as provided herein, that such petition has been filed;

20 (b) If for the construction of a county-district road or
21 bridge thereon, summary of engineer's report provided for in
22 section five setting forth the approximate extent and the esti-
23 mated cost of the proposed improvement, and the kind or class
24 of work to be done thereon;

25 (c) Purpose or purposes for which proceeds of bonds are to
26 be expended;

27 (d) Valuation of the taxable property as shown by the last
28 assessment thereof for state and county purposes;

29 (e) Indebtedness, bonded or otherwise;

30 (f) Amount of the proposed bond issue;

31 (g) Maximum term of bonds and series;

32 (h) Maximum rate of interest;

33 (i) Date of election;

34 (j) If a special election, names of commissioners for holding
35 same;

36 (k) If registration of voters is necessary, notice of the time,
37 place and manner of making same.

38 (1) That the levying body is authorized to lay a sufficient
39 levy annually to provide funds for the payment of the interest
40 upon the bonds and the principal at maturity, and the approxi-
41 mate rate of levy necessary for this purpose.

42 Any other provisions which do not violate any positive pro-
43 vision of the law, or transgress some principal of public policy
44 may be incorporated in the order.

Sec. 5. Before ordering an election on the question of
2 issuing bonds, to construct a county-district road or bridge,
3 either on its own motion, or on petition, the county court shall
4 instruct the county road engineer or some other engineer desig-
5 nated by it for the purpose, to make an investigation and report
6 to the court an estimate of the probable cost of the proposed
7 improvement.

Sec. 6. The order or ordinance submitting the proposition
2 of issuing bonds to vote may specify more than one purpose for
3 which bonds are to be issued. *Provided*, that the amount of
4 the proceeds of the issue to be used for each purpose shall also
5 be specified therein.

Sec. 7. Elections for the purpose of voting upon the ques-
2 tion of issuing bonds may be held at any general, primary, or
3 special election, which the fiscal body in its order submitting the
4 same to vote may designate, except, that, when a petition is filed
5 asking that bonds be issued, the fiscal body with which same is
6 filed, if it be not designated in the petition that the election shall
7 be held at a general or primary election, shall order a special
8 election to be held within sixty days from the date of the filing
9 of such petition; or, if it be a petition for bonds for the con-
10 struction of county-district roads or bridges thereon, the elec-
11 tion shall be held within sixty days from the filing of the engi-
12 neer's report as provided for in this act.

Sec. 8. Notice of all bond elections shall be given by the
2 publication of the order provided for in section four of this
3 act at least once each week for four successive weeks prior to the
4 date of the election in two newspapers of different politics, if
5 there be such published in the political division in which the
6 election is to be held. If there be only one newspaper published
7 in such political division, the notice shall be published as afore-
8 said therein. If no newspaper be published therein, then in
9 some newspaper published in the county within which such

10 political division is embraced. Notice shall also be given by
 11 posting printed copies of such order at the front door of the
 12 meeting place of the body calling the election and at each voting
 13 precinct at which the election is to be held at least ten days be-
 14 fore the election.

Sec. 9. Registration of voters for any election held for the
 2 purpose of voting upon the issuance of bonds, shall be made in
 3 accordance with the provisions of the general registration laws
 4 of this state. Except, that, for amending and correcting the
 5 registration of voters for a special election as provided by the
 6 general registration law, the fiscal body ordering the election
 7 shall do and perform all things thereby imposed upon county
 8 courts. When bond elections are held in connection with any
 9 general or primary elections no registration other than that
 10 made by the county court shall be had.

Sec. 10. Elections for bond issues for counties, districts and
 2 school districts, shall be held at the voting precincts established
 3 for holding general elections; for municipalities, at the precincts
 4 established for the election of municipal officers, and for inde-
 5 pendent school districts, at the precincts used for voting for
 6 boards of education.

Sec. 11. All the provisions of the general election laws of
 2 this state, concerning general, primary or special elections, when
 3 not in conflict with the provisions of this act, shall apply to bond
 4 elections hereunder, insofar as practicable. *Provided*, that in
 5 bond elections for municipalities, school or independent school
 6 districts, the recorders and secretaries respectfully shall procure
 7 and furnish to the election commissioners at each voting precinct
 8 the tickets, poll books, tally-sheets and other things necessary
 9 for conducting the election and perform all duties imposed by
 10 law upon clerks of the circuit courts in relation to general elec-
 11 tions.

Sec. 12. The ballots to be used at elections hereunder shall
 2 be in substantially the following form:

3 "Shall (Name of political division),
 4 incur debt and issue bonds to the amount of \$.....,
 5 to run not more than years from the date
 6 thereof, with interest not exceeding the rate of per
 7 centum per annum, for the purpose of, and
 8 levy taxes sufficient to pay the interest on and the principal of
 9 said bonds.

10 Yes []

11 No []

12 NOTICE TO VOTERS: To vote in favor of the proposition sub-
13 mitted on this ballot place an X mark in the square after the
14 word "Yes".

15 To vote against it, place a similar mark after the word "No."

Sec. 13. The authorities calling bond elections shall canvass
2 the returns at the same time with reference to the election and
3 in the same manner as is required of county courts for general
4 elections.

Sec. 14. If three-fifths of all the votes cast for and against
2 the same shall be in favor of the proposition to incur debt and
3 issue negotiable bonds, the governing authorities of the political
4 division shall by resolution, authorize the issuance of such bonds
5 in an amount not exceeding the amount stated in the propo-
6 sition; fix the date thereof; set forth the denominations in which
7 they shall be issued, which denominations shall be one hundred
8 dollars or multiples thereof; to determine the rate of interest
9 which the bonds shall bear, which rate of interest shall be with-
10 in the maximum rate stated in the proposition submitted to vote
11 and payable semi-annually, and shall in no case exceed six per
12 centum per annum; prescribe the medium with which the bonds
13 shall be payable, require that the bonds shall be made payable
14 at the office of the treasurer of the State of West Virginia and
15 at such other place or places as such governing authorities may
16 appoint; provide for a sufficient levy to pay the annual interest
17 on the bonds and the principal at maturity; fix the times within
18 the maximum period as contained in the proposition submitted
19 to vote, when the bonds shall become payable, which shall not
20 exceed thirty-four years from the date thereof, and prescribe a
21 form for executing the bonds authorized.

22 Said bonds shall be made payable in annual installments be-
23 ginning not more than two years after the date thereof, and the
24 amount payable in each year may be so fixed that when the
25 annual interest is added to the principal amount to be paid, the
26 total amount payable in each year in which part of the prin-
27 cipal is payable, shall be as nearly equal as practicable. It shall
28 be an immaterial variance if the difference between the largest
29 and smallest amounts of principal and interest payable an-
30 nually during the term of the bonds shall not exceed three per
31 centum of the total authorized issue. Or, said bonds may be

32 payable in annual installments beginning not more than two
33 years after the date thereof, each installment being as nearly
34 equal in amount as may be practicable.

See. 15. The resolution authorizing the bonds provided for
2 in the last preceding section may direct that they shall contain
3 the following recital:

4 "It is certified that this bond is authorized by and is issued
5 in conformity with the requirements of the constitution and
6 statutes of the State of West Virginia."

7 Such recital shall be deemed an authorized declaration by the
8 governing authority of the political division and to import that
9 there is constitutional and statutory authority for incurring the
10 debts and issuing the bonds; that all the proceedings therefor
11 are regular; that all the acts, conditions and things required to
12 exist, happen and be performed precedent to and in the issuance
13 of the bonds, have existed, happened and been performed in due
14 time, form and manner as required by law; that the amount
15 of the bond and the issue of which it forms a part, together
16 with all other indebtedness, does not exceed any limit or limits
17 prescribed by the constitution or statutes of this state, and that
18 all questions connected with incurring the debt and issuing the
19 bonds have been first submitted to a vote of the people and have
20 received three-fifths of all the votes cast for and against the
21 same at an election regularly called and held for the purpose
22 after notice published and posted in the manner required by
23 law. If any bond be issued containing the said recital, it shall
24 be conclusively presumed that said recital construed according
25 to the import hereby declared, is true, and neither the political
26 division nor any taxpayer thereof shall be permitted to question
27 the validity or regularity of the obligation in any court or in
28 any action or proceeding.

See. 16. Bonds issued hereunder may be either registered or
2 coupon bonds. Coupon bonds may be registered as to principal
3 in the holder's name on the books of the financial officer of the
4 political division, the registration being noted upon the bonds
5 by such financial officer, after which no transfer shall be valid
6 unless made on such financial officer's books by the registered
7 holder and similarly noted on the bond. Bonds registered as to
8 principal may be discharged from registration by being trans-
9 ferred to bearer, after which they shall be transferable by de-
10 livery, but may be again registered as to principal as before.

11 The registration of the bonds as to principal shall not restrain
12 the negotiability of the coupons by delivery merely.

Sec. 17. Coupon bonds issued by any municipal corpora-
2 tion having a population of twenty thousand or more according
3 to the last federal census, or by any county containing such
4 municipal corporation, or by any school district or independent
5 school district whose boundaries are co-terminous with or in-
6 elude any such municipal corporation, may also be registered as
7 to interest, and the coupons surrendered and the interest
7a made payable only to the registered holder of the bond.
8 For that purpose the financial officer of the county, municipi-
9 pal corporation or school district shall detach and cancel
10 the coupons and shall endorse a statement on the bond that the
11 coupon sheet issued therewith has been surrendered by the
12 holder and the coupons cancelled by him, and that the semi-
13 annual interest is thereafter to be paid to the registered holder
14 or order by draft check or warrant drawn payable at a place
15 of payment specified in the bond. Bonds registered under this
16 section may, with the consent of the county or municipal cor-
17 poration or school district and the holders of the bonds, be re-
18 converted into coupon bonds at the expense of the holder there-
20 to time, as the governing authority of the municipal corporation
21 or county or school district and the holders of the bonds may
22 determine. Such counties, municipal corporations and school
23 districts are authorized to pass all resolutions and ordinances
24 necessary to give effect to the provisions of this section.

Sec. 18. All bonds issued hereunder by any county shall be
2 signed by the president of the county court and countersigned
3 by the clerk of such court; bonds issued by any municipality
4 shall be signed by the mayor or other chief executive and coun-
5 tersigned by the clerk, recorder or secretary; bonds issued by a
6 district or independent school district shall be signed by the
7 president of the board of education and countersigned by the
8 secretary thereof. The seal of the political division shall be
9 affixed to said bonds. Interest coupons shall be signed by the
10 fac-simile signatures of such officers. The delivery of any bonds
11 or coupons so executed at any time thereafter shall be valid,
12 although before the date of delivery the person signing such
13 bonds or coupons shall have ceased to hold office.

Sec. 19. It shall be the duty of the governing authority of any political division issuing bonds hereunder, to impose and collect annually, in excess of all other taxes, a tax on all property subject to taxation, by the political division under the constitution and laws of the state of West Virginia, sufficient in amount to pay annually the interest on such debt and the principal thereof falling due in each year, such tax to be levied and collected by the same officers, at the same time and in the same manner as the general taxes of the political division. Should any political division neglect or fail for any reason to impose or collect such taxes for the payment of the principal or interest of any bonded indebtedness incurred hereunder, any person in interest or the state tax commissioner may enforce the imposition and collection thereof in any court having jurisdiction of the subject matter, and any suit, action or proceeding brought for such purpose shall be a preferred cause and shall be heard and disposed of without delay.

Sec. 20. The governing authority of the political division issuing the bonds shall sell the same and collect the proceeds, which proceeds shall be deposited with its treasurer. Whenever any bonds are to be sold, the body authorized to sell the same shall, before offering them to the public, offer them in writing to the secretary of state, which shall be held to be an offer to sell the bonds at their par value to each of the governmental agencies of the state authorized by law to purchase such bonds. If, after such offer is made, the governing authorities of the political division making the offer shall be notified in writing that none of such agencies of the state has elected to purchase such bonds, or after ten days have elapsed after such offer of sale has been made without an acceptance by any said agencies of the state, then the governing authority of the political division shall advertise the said bonds for sale, on sealed bids, which advertisement shall be published at least once a week for three weeks, the first publication to be made at least twenty-one days preceding the date fixed for the reception of bids, in a newspaper published in the political division, or if there be none published therein, in a newspaper published in the county in which the political division is situated, and also posted in three public places in the political division at least twenty-one days before the date fixed for the reception of bids, either in a financial paper

25 published in the city of New York or the city of Chicago, or
26 in a newspaper of general circulation published in the city of
27 the state of West Virginia having a population of not less
28 than twenty thousand inhabitants, according to the last fed-
29 eral census. The governing authority may reject any and all
30 bids. If the bonds be not sold pursuant to such advertise-
31 ment, they may be sold by the governing body at private
32 sale, within sixty days after the date advertised for the re-
33 ception of bids, but no private sale shall be made at a price
34 less than the highest bid which shall have been received.
35 If not sold, said bonds shall be re-advertised in the manner
36 herein provided. In no event shall bonds be sold for less
37 than their par value.

38 The profit accruing upon any bonds offered to the secre-
39 tary of state under the provisions of this act, and purchased
40 by the state sinking fund commission and sold by said com-
41 mission at a premium shall be credited to the sinking fund
42 of the political division issuing the bonds for the payment
43 of said bonds and any interest thereon.

Sec. 21. The proceeds derived from the sale of any bonds
2 shall be used only for the purpose or purposes for which the
3 bonds were issued as set out in the order or ordinance sub-
4 mitting the question to vote, but the purchaser of the bonds
5 shall not be obliged to see to the application thereof.

Sec. 22. This act shall without reference to any other act
2 of the legislature, be full authority for the issuance and sale
3 of bonds in this act authorized. No order, ordinance, reso-
4 lution or proceeding in respect to the issuance of any bond
5 hereunder shall be necessary, except such as are required by
6 this act. No publication of any order, ordinance, resolution
7 or proceeding relating to the issuance of said bonds shall be
8 necessary except such as is required by this act. Any publica-
9 tion prescribed hereby may be made in any newspaper con-
10 forming to the terms of this act, without regard to designa-
11 tion thereof as the official journal of the political division.

Sec. 23. Bonds issued hereunder shall have all the qualities
2 of negotiable paper under the law merchant and shall not be
3 invalid for any irregularity or defect in the proceedings for
4 the issuance thereof, and shall be incontestable in the hands or
5 *bona fide* purchasers or holders thereof for value.

Sec. 24. The governing authorities of any political division
2 issuing bonds hereunder, shall as soon as practicable after the
3 result of the election authorizing their issuance shall have been
4 officially ascertained, transmit to the attorney general a duly
5 certified copy of all the orders, ordinances, proclamations, no-
6 tices, advertisements, affidavits, resolutions and records of all
7 the proceedings connected with or pertaining to such bond issue,
8 and any other matters relative thereto which the attorney gen-
9 eral may require. The attorney general shall thereupon either
10 approve or disapprove the validity of such bond issue, and
11 shall immediately notify the governing authorities of the po-
12 litical division which authorized the issuance of the bonds of
13 his action by mail, and as soon as practicable notify the people
14 of such political division of his approval or disapproval of
15 such bond issue, by causing notice thereof to be published once
16 each week for two successive weeks, in two newspapers of op-
17 posite politics, if there be such, published therein, or if no
18 newspaper be published in said political division, then in some
19 newspaper which is of general circulation therein.

20 . For a period of ten days from and after the date of the last
21 publication of the notice of the attorney general of his action
22 in approving or disapproving the validity of any bond issue as
23 herein provided, any person in interest, or any taxpayer within
24 the political division for which bonds are authorized to be
25 issued, may present his or its petition to the supreme court
26 of appeals or to a judge thereof in vacation, praying that the
27 action of the attorney general in approving or disapproving
28 such bond issue as aforesaid, be reversed or modified; and if
29 the court, or a judge thereof in vacation, be of the opinion to
30 hear and determine the matters in said petition set out, the
31 case shall be proceeded with as in cases of original jurisdic-
32 tion; but the petitioner shall file with the clerk of the court
33 a bond with security to be approved by him, and in such sum
34 as the court or judge may fix, for the payment of such costs
35 as may be awarded against him in said court. The clerk of
36 the court shall forthwith notify the attorney general of the
37 action taken by the court or judge in vacation upon such pe-
38 tition, and for the hearing thereof the attorney general shall
39 file with the clerk of said court all papers, documents, evi-
40 dence and records, or certified copies thereof, which were before
41 him and on which he based his approval or disapproval; and

42 before the day fixed for final hearing he shall file with the
43-48 clerk of said court a written statement of his reasons for the
49 approval or disapproval of the bond issue. Upon the sub-
50 mission of the case the court shall decide the matters in con-
51 troversy and enter such order thereon as to it may seem to be
52 just. Hearings upon such cases shall have precedence over those
53 arising upon appeals and writs of error.

54 If no person in interest or taxpayer shall within ten days
55 from and after the date of the last publication of the notice
56 of the attorney general of his action in approving or disap-
57 approving the validity of any bond issue as herein provided,
58 present his or its petition to the supreme court of appeals
59 or to a judge thereof in vacation praying that the action of the
60 attorney general be reversed or modified, as hereinbefore pro-
61 vided, or if such petition be filed and the court or judge be of
62 opinion not to hear and determine the matters in said petition
63 set out, said action of the attorney general shall be final and
64 no other appeal be allowed therefrom; and any bond issue ap-
65-66 proved by him shall become incontestable and shall be a valid
67 and binding obligation upon the authority issuing the same and
68 upon the taxable property within the political division which
69 authorized the bond issue by the vote of the people therein;
70 and no one shall thereafter have the right to contest in any
71 court or in any action or proceeding the legality of any elec-
72 tion held hereunder, the bond issue provided for, or the tax
73 required to pay the same, for any cause whatsoever.

74 After ten days shall have elapsed from and after the date
75 of the last publication of the attorney general's notice herein
76 provided for, and no action be pending to have his approval
77 of the bond issue reversed or modified, the attorney general
78 shall endorse upon each and every bond of the issue so approved
79 by him his certificate to the effect that such bond has been ap-
80 proved by him by virtue of the authority vested in him by this
81 act; that notice of his approval was published as required here-
82 in; that ten days has elapsed since the date of the last publica-
83 tion of said notice; that there has been no appeal from his
84 decision to the supreme court of appeals, and that the bond
85 has become incontestable and is a binding obligation upon the
86 authority issuing the same and upon the taxable property
87 within the political division, and that the validity of said bond
88 shall not be contested thereafter in any court or in any action
89 or proceeding for any cause whatsoever.

90 The costs of publishing the notice to taxpayers as herein pro-
91 vided, and the costs of certifying and copying all records,
92 papers and proceedings to be used by the attorney general in
93 passing upon the validity of the bond issue, and all neces-
94 sary expense incurred by the attorney general in connection
95 with any bond issue shall be paid by the authority issuing
96 such bonds out of the proceeds arising from the sale thereof,
97 if the same be finally approved, and if the bond issue be dis-
98 approved such expense shall be paid out of the general fund
99 of such authority.

100 The attorney general shall keep on file in his office the
101 papers pertaining to any bond issue submitted to him, and
102 shall record his findings of approval or disapproval in a well
103 bound book kept for that purpose in his office, which shall
104 be open for inspection of anyone in interest during business
105 hours.

Sec. 25. Nothing contained in this act shall affect in any
2 way proceedings heretofore begun by the governing authority
3 of any political division to issue bonds under the authority of
4 any statutes of this state heretofore in force. Said proceed-
5 ings may be completed under the statute under which the
6 same were begun under this act so far as the same can be
7 made applicable thereto.

Sec. 26. Sections forty-nine-b (1) to forty-nine-b (11), in-
2 elusive, of chapter forty-seven of Barnes' code of one thou-
3 sand nine hundred and sixteen, section one of chapter forty-
4 seven-a of Barnes' code of one thousand nine hundred and
5 sixteen, section one hundred and eighty-three of chapter two
6 of the acts of the legislature of one thousand nine hundred
7 and nineteen, regular session, section nine (c) of chapter
8 eighteen of the acts of the legislature of one thousand nine
9 hundred and twenty-one, regular session, and chapter fifty-
10 seven of the acts of the legislature of one thousand nine hun-
11 dred and seventeen, regular session, are hereby repealed. Sec-
12 tion ten of chapter eighteen of the acts of the legislature of one
13 thousand nine hundred and twenty-one, regular session, sec-
14 tion one hundred and eighty-four of chapter two of the acts
15 of the legislature of one thousand nine hundred and nine-
16 teen, regular session, sections one hundred and six to one hun-
17 dred and nine, inclusive, of chapter one hundred and twelve
18 of the acts of the legislature of one thousand nine hundred

19 and twenty-one, regular session, and all other acts or parts
 20 of acts, whether general or special, insofar as the provisions
 21 thereof are inconsistent with the provisions of this act, are
 22 hereby repealed. *Provided, however,* that when by a special
 23 act of the legislature any municipality or independent school
 24 district is authorized to become indebted for any purpose or
 25 purposes in a greater amount than is fixed by section three of
 26 this act, bonds may be issued hereunder by such municipality
 27 or independent school district in an amount not exceeding that
 28 fixed by such special act. And, *provided, further,* that this
 29 act shall not affect any general or special law providing for the
 30 issuing of bonds for any improvement to be paid for in whole
 31 or in part by assessment against abutting property. And,
 32 *provided, further,* that this repealer shall not prevent the com-
 33 pletion of proceedings heretofore begun as in this act pro-
 34 vided, nor invalidate any indebtedness heretofore incurred
 35 under existing law.

CHAPTER 15

(Senate Bill No. 163—Mr. Porter)

AN ACT to amend and re-enact sections fifteen-d, thirty-five, thirty-
 six, fifty-six and fifty-eight of chapter thirty-four of Barnes'
 code of one thousand nine hundred and sixteen, relating to
 reports and licenses of insurance companies and agents.

[Passed April 13, 1923. In effect ninety days from passage. Approved by the
 Governor April 21, 1923]

<p>Sec. 15-d. Agents license, who can solicit applicants for policies; insurance commissioner's duty when agent violates law.</p> <p>35. Fire and marine insurance companies to make report to insurance commissioner; what report shall contain.</p> <p>36. When fire and marine insurance</p>	<p>Sec.</p> <p>56. Persons shall not act as agent without first securing certificate of authority.</p> <p>58. Certificates or licenses; how long to continue in force; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That sections fifteen-d, thirty-five, thirty-six, fifty-six and fifty-eight of chapter thirty-four of Barnes' code of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 15-d. No person shall act in the solicitation or procurement of applicants for, or policies of, insurance for any

3 company referred to in this chapter except as solicitor under
4 section fifteen-c of this law, without first procuring a certificate
5 of authority as agent from the insurance commissioner, which
6 certificate shall be renewable on the first day of April in each
7 year; and said insurance commissioner shall not issue such cer-
8 tificate of authority to any person who is not a resident of this
9 state, and whom he finds not trustworthy and competent to
10 transact the business for authority to do which application is
11 made; and on conviction of any person acting as such agent,
12 of the violation of any provision of this law the insurance com-
13 missioner shall forthwith revoke the certificate of authority is-
14 sued to him, and no certificate shall be thereafter issued to such
15 convicted person, until one year from the date of conviction.

16 Whenever the insurance commissioner upon investigation is
17 satisfied that any agent acting under his supervision and hold-
18 ing a certificate of authority from him is violating or has viol-
19 ated the insurance laws of West Virginia, or that he is incom-
20 petent or untrustworthy, or whenever he shall proceed to re-
21 voke a certificate or license of such agent under any section of
22 this law he shall notify such agent of his findings, and state in
23 writing the complaint against him and require such person on
24 a date named, which date shall not be less than thirty days
25 after service of notice, to show cause why his license should not
26 be revoked.

27 If on the date named in said notice the said agent does not
28 present good and sufficient reasons why his authority to trans-
29 act business in this state should not be revoked, the said com-
30 missioner may revoke such person's certificate of authority. All
31 decisions and findings of the insurance commissioner made un-
32 der the provisions of this section shall be reviewable by proper
33 proceedings in any court of competent jurisdiction within this
34 state; *provided, however*, that nothing contained in this section
35 shall be taken or construed as preventing any such agent from
36 doing business under the authority of such certificate during
37 the pending of any proceeding taken to review an adverse de-
38 cision of the insurance commissioner.

Sec. 35. Every fire and every fire and marine insurance com-
2 pany doing business in this state shall annually, on or before
3 March first, render to the insurance commissioner a report, sign-
4 ed and sworn to by its president and secretary, of its condition
5 on the thirty-first of December next preceding, in the following
6 form, namely: *first*, the amount of its capital stock; *second*, its
7 assets, specifying—(1) the value of its real estate; (2) the

8 amount of its cash on hand and in bank, specifying where it is
9 deposited; (3) the amount of cash in the hands of agents and
10 in course of transmission; (4) the amount of loans secured by
11 mortgages on which there shall be less than one year's in-
12 terest due; (5) the amount of such loans with one year's interest
13 or more due thereon; (6) the amount due on judgments; (7)
14 the amount of its stocks and bonds, with the description of
15 amount, number of shares, and the par and market value of
16 each; (8) the amount of stocks and bonds held as collateral
17 security for loans, with the amount loaned on each and the par
18 and market value thereof; (9) the amount of assessments on
19 stock or premium notes, paid or unpaid; (10) the amount of
20 interest accrued and unpaid; (11) the amount of premium notes
21 on hand on which policies are issued; *third*, its liabilities, spec-
22 ifying—(1) the amount of losses due and unpaid; (2) the
23 amount of unpaid losses not paid; (3) the amount of claims for
24 losses resisted by the company; (4) the amount of losses in-
25 curred during the year, including those claimed and not yet
26 due, and those reported to the company upon which no action
27 has been taken; (5) the amount of dividends due and unpaid;
28 (6) the amount of dividends, either cash or script, not yet pay-
29 able; (7) the amount of money borrowed, and security given
30 for the payment thereof; (8) the amount of premiums received
31 on all risks not terminated; (9) the amount required to re-
32 insure all fire risks in force, computed at fifty per cent of the
33 gross amount of fire premiums less return premiums and re-
34 insurance received on risks in force, and not perpetual; ninety-
35 five per cent of premiums on perpetual risks in force, and one
36 hundred per cent of the amount of ocean marine premiums re-
37 ceived on risks in force, excepting on time hull risks which may
38 be computed at fifty per cent of the amount of premiums re-
39 ceived on risks in force; (10) the amount of all other claims
40 against it; *fourth*, its income during the preceding year, spec-
41 ifying—(1) the amount of cash premiums received; (2) the
42 amount of notes received for premiums; (3) the amount of in-
43 terest money received; (4) the amount of income received from
44 other sources; *fifth*, its expenditures during the preceding year,
45 specifying—(1) the amount of losses paid, stating how much of
46 the same accrued prior and how much subsequent to its pre-
47 ceding statement and the amount at which such losses were es-
48 timated in such statement; (2) the amount of dividends paid;
49 (3) the amount of expenses paid, including agent's commis-

50 sions; (4) the amount paid in taxes; (5) the amount of all
51 other expenditures.

Sec. 36. No fire or fire and marine insurance company or
2 association incorporated or organized under the laws of this
3 state or of any other state, territory or county of the United
4 States or the District of Columbia, or any foreign country shall,
5 directly or indirectly, take risks or transact any business in
6 this state unless possessed of at least one hundred thousand dol-
7 lars cash capital paid up and securely invested, and every such
8 company shall deposit with the insurance commissioner a cer-
9 tified copy of its charter and a statement under oath of its
10 president or vice-president, and secretary or other proper offi-
11 cer, stating its name and location and other particulars re-
12 quired by section thirty-five. No such companies or associa-
13 tions shall make contracts of insurance on property in this state
14 except through lawfully constituted and licensed resident
15 agents, nor shall any person act as agent for any such company
16 directly or indirectly taking risks or transacting the business
17 of fire insurance in this state, without procuring from the in-
18 surance commissioner a certificate of authority stating that such
19 company has complied with all the requirements of the law.
20 Such certificate shall continue in force as provided in section
21 fifty-eight unless revoked for cause. The statement required
22 by this section shall be made annually on or before March first,
23 and shall specify the amount of premiums received and losses
24 paid in this state during the preceding year; and said commis-
25 sioner, on being satisfied that the capital, securities, and in-
26 vestments, remain secure shall furnish a renewal of his cer-
27 tificate.

Sec. 56. No person shall act as agent of any insurance com-
2 pany, corporation, association, partnership, or combination of
3 persons incorporated, organized, associated, or combined under
4 or by virtue of the laws of this or any other state of the United
5 States or any foreign country, directly or indirectly taking risks
6 or transacting any kind or form of insurance business in this
7 state, without procuring from the insurance commissioner a cer-
8 tificate of authority, stating that such company, corporation,
9 association, partnership or combination of persons, has complied
10 with all the laws of this state relative to such companies, cor-
11 porations, associations, partnerships or combinations of per-
12 sons, which certificate shall continue in force until the first of
13 April next after its issue, unless revoked for cause.

Sec. 58. All certificates or licenses issued by the insurance commissioner to companies or associations of this state, or to companies or associations, existing under the laws of any other state or foreign government, to an agent of any such company or association, shall continue in force until the first day of April next following their issue, unless the same be sooner revoked. *Provided, however,* nothing in this act or in chapter thirty-four of Barnes' West Virginia code, one thousand nine hundred and twenty-three edition, shall be held to relate to or apply to farmers' mutual fire insurance companies organized under chapter fifty-five of said code.

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

CHAPTER 16

(Senate Bill No. 164—Mr. Porter)

AN ACT to amend and re-enact section forty of chapter seventy-seven of the acts of the legislature of one thousand nine hundred and seven, (being section forty of chapter thirty-four of Barnes' code of one thousand nine hundred and eighteen) relating to the scope of fire insurance, and repealing chapter eighteen of the acts of the legislature of West Virginia of one thousand nine hundred and seventeen, (being section seventy-seven of chapter thirty-four of Barnes' code of one thousand nine hundred and eighteen) relating to automobile insurance.

[Passed April 12, 1923. In effect ninety days from passage. Approved by the Governor April 21, 1923]

SEC.
40. Kinds of insurance authorized.

Be it enacted by the Legislature of West Virginia:

That section forty of chapter seventy-seven of the acts of the legislature of one thousand nine hundred and seven, (being section forty of chapter thirty-four of Barnes' code of one thousand nine hundred and eighteen) be amended and re-enacted so as to read as follows:

Section 40. Insurance companies authorized under the laws of this state having power to insure against loss by fire, may make insurance against loss or damage to dwelling houses, stores and all kinds of buildings and household furniture, goods, merchandise and chattels of every description, and all

6 other property by fire, lightning, windstorm, tornado, cyclone,
7 earthquake, hail, frost or snow, weather or climatic conditions,
8 including excess or deficiency of moisture, flood, rain or
9 drought, rising of the waters of the ocean or its tributaries
10 and rivers, bombardment, invasion, insurrection, riot, strike,
11 civil war or commotion, military or usurped power, and by
12 explosion whether fire ensues or not; also against loss or dam-
13 age by insects or disease to farm crops or products and loss of
14 rental value of land used in producing such crops or products;
15 and also against loss or damage by water or other fluid to any
16 goods or premises arising from the breakage or leakage of
17 sprinklers, pumps or other apparatus erected for extinguish-
18 ing fires, or of other conduits or containers, or by water enter-
19 ing through leaks or openings in buildings and of water pipes,
20 and against accidental injury to such sprinklers, pumps, ap-
21 paratus, conduits, containers or water pipes; and against loss
22 or damage upon vessels, boats, cargoes, goods, merchandise,
23 freight and other property by all or any of the risks of lake,
24 river, canal and inland navigation and transportation; and
25 also loss or damage upon automobiles, and airplanes, seaplanes,
26 dirigibles or other aircraft whether stationary or being oper-
27 ated under their own power, which shall include all or any of
28 the hazards of fire, explosion, transportation, collision, loss by
29 legal liability for damage to property, resulting from the
30 maintenance and use of automobiles, air planes, seaplanes,
31 dirigibles or other aircraft; and loss by burglary or theft,
32 vandalism or malicious mischief, or the wrongful conversion,
33 disposal or concealment of automobiles, whether held under
34 conditional sale contract or subject to chattel mortgages, or
35 any or more of such hazards, but shall not include insurance
36 against loss by reason of bodily injury to the person, nor loss
37 caused by breach of trust; *provided*, the subject of the insur-
38 ance and the risk, hazard or peril insured against shall be ex-
39 pressly set forth in the policy of insurance, and shall include
40 the right to effect reinsurance of any risks taken by them in
41 authorized and admitted companies in this state.

42 All acts and parts of acts inconsistent with the provisions
43 of this act are hereby repealed, including chapter eighteen of
44 the acts of the legislature of one thousand nine hundred and
45 seventeen, the same being section seventy-seven of chapter
46 thirty-four of Barnes' code of West Virginia of one thousand
47 nine hundred and eighteen.

CHAPTER 17

(Senate Bill No. 165—Mr. Porter)

AN ACT to amend and re-enact section one of chapter one hundred and twenty-seven of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, relating to non-resident insurance brokers.

[Passed April 12, 1923. In effect ninety days from passage. Approved by the Governor April 21, 1923]

SEC.

1. License to act as insurance broker; what application for shall	show; revocation and expiration of license; renewal of.
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Be it enacted by the Legislature of West Virginia:

That section one of chapter one hundred and twenty-seven of the acts of the legislature of one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Section 1. The insurance commissioner may, upon receipt of ten dollars, except as hereinafter provided, issue to any suitable person, resident in any other state, a license to act as an insurance broker to negotiate contracts of insurance or reinsurance or place risks or effect insurance or reinsurance with the authorized agent of any qualified domestic insurance company, or with the authorized agent in this state of any foreign insurance company duly admitted to do business in this state, and not otherwise, upon the following conditions:

The applicant for such a license shall file with the insurance commissioner an application which shall be in writing upon a form to be provided by the insurance commissioner, and shall be executed by the applicant under oath and kept on file by the insurance commissioner. Such application shall state the name, age, residence and occupation of the applicant at the time of making application, his occupation for five years next preceding the date of filing the application and shall state that the applicant intends to hold himself out and carry on business in good faith as an insurance broker and shall give such other information as the commissioner may require. The application shall be accompanied by a statement, upon a blank furnished by the insurance commissioner, as to the trustworthiness and competency of the applicant, signed by at least three reputable citizens of this state. If the insurance commissioner is satisfied that the applicant is trustworthy and competent and

26 intends to hold himself out and carry on business in good faith
27 as an insurance broker, he may issue to him the license applied
28 for. The commissioner may at any time after the granting of
29 broker's license, for cause shown and after a hearing determine
30 that the licensee has not complied with the insurance laws or
31 is not trustworthy or competent, or is not holding himself out
32 and actually carrying on business as an insurance broker, or is
33 not a suitable person to act as such broker, or has placed in-
34 surance on risks in this state in companies or other insurers not
35 authorized to transact business in this state, and he shall there-
36 upon revoke the license of such broker and notify him that the
37 license has been revoked. Such broker's license shall expire
38 on the last day of March after its issue unless sooner revoked
39 by the insurance commissioner for cause, as above provided.
40 The insurance commissioner shall publish a notice of the re-
41 vocation of a broker's license in such manner as he deems prop-
42 er for the protection of the public. Broker's licenses issued on
43 application as herein provided, may in the discretion of the
44 insurance commissioner, be renewed upon the payment of the
45 proper fees without his requiring anew the details required in
46 the original application.

CHAPTER 18

(Senate Bill No. 166—Mr. Porter)

AN ACT to amend and re-enact section sixty-eight of chapter thirty-four of Barnes' code of West Virginia of one thousand nine hundred and eighteen, relating to the form of fire insurance policies and repealing sections sixty-seven and sixty-nine of said chapter.

[Passed April 16, 1923. In effect ninety days from passage. Approved by the Governor April 21, 1923]

SEC.
68. Conditions of and form of policy;
duties of insurance commissioner under this section.

Be it enacted by the Legislature of West Virginia:

That section sixty-eight of chapter thirty-four of Barnes' code of west Virginia of one thousand nine hundred and eighteen be amended and re-enacted so as to read as follows:

Section 68. On and after January first, one thousand nine
 2 hundred and twenty-four, no fire insurance company, its officers
 3 or agents, shall make, issue or deliver for use any fire in-
 4 surance policy, or the renewal of any such policy, on property
 5 in this state, other than such as shall conform in all particulars
 6 as to blanks, size of type, context, provisions, agreements and
 7 conditions as set forth herein.

8 No.....

9 [Space for insertion of name of company or companies issuing
 10 the policy and other matter permitted to be stated at the head
 11 of the policy.]

12 Amount \$..... Rate..... Premium \$.....

13 In consideration of the stipulations herein named
 14 and of.....dollars premium
 15 does insure.....

16 and legal representatives, to the extent of the actual cash value
 17 (ascertained with proper deductions for depreciation) of the
 18 property at the time of loss or damage, but not exceeding the
 19 amount which it would cost to repair or replace the same with
 20 material of like kind and quality within a reasonable time after
 21 such loss or damage, without allowance for any increased cost
 22 of repair or reconstruction by reason of any ordinance or law
 23 regulating construction or repair and without compensation for
 24 loss resulting from interruption of business or manufacture,
 25 for the term of.....

26 from the.....day of.....19....., at noon,
 27 to the.....day of.....19....., at noon,

28 against all direct loss and damage by fire and by removal from
 29 premises endangered by fire, except as herein provided, to an
 30 amount not exceeding.....dollars

31 to the following described property while located and con-
 32 tained as described herein, or pro rata for five days at each
 33 proper place to which any of the property shall necessarily be
 34 removed for preservation from fire, but not elsewhere, to-wit:

35 [Space for description of property.]

36 This policy is made and accepted subject to the foregoing
 37 stipulations and conditions, and to the stipulations and con-
 38 ditions printed on the back hereof, which are hereby made a
 39 part of this policy, together with such other provisions, stipu-
 40 lations and conditions as may be endorsed hereon or added
 41 hereto as herein provided.

42 In Witness Whereof, this company has executed and attested
43 these presents.

44 [Space for date and for signatures and titles of officers and
45 agent.]

1 This entire policy shall be void if the insured
2 **Fraud, misrepre-** has concealed or misrepresented any ma-
3 **sentation, etc.** terial fact or circumstance concerning this
4 insurance or the subject thereof; or in case of any fraud or false
5 swearing by the insured touching any matter relating to this
6 insurance or the subject thereof, whether before or after a loss.
7 This policy shall not cover accounts, bills,
8 **Uninsurable** currency, deeds, evidences of debt, money,
9 **and** notes or securities; nor, unless specifically
10 **excepted property.** named hereon in writing, bullion, manu-
11 **scripts, mechanical** drawings, dies or patterns.
12 This Company shall not be liable for loss
13 **Hazards not** or damage caused directly or indirectly by
14 **covered.** invasion, insurrection, riot, civil war or
15 commotion, or military or usurped power, or by order of any
16 civil authority; or by theft; or by neglect of the insured to use
17 all reasonable means to save and preserve the property at and
18 after a fire or when the property is endangered by fire in
19 neighboring premises.
20 This entire policy shall be void, unless otherwise provided
21 by agreement in writing added hereto,
22 (a) if the interest of the insured be other than
23 **Ownership, etc.** unconditional and sole ownership; or (b) if
24 the subject of insurance be a building on ground not owned by
25 the insured in fee simple; or (c) if, with the knowledge of the
26 insured, foreclosure proceedings be commenced or notice given
27 of sale of any property insured hereunder by reason of any mort-
28 gage or trust deed; or (d) if any change, other than by the death
29 of an insured, take place in the interest, title or possession of
30 the subject of insurance (except change of occupants without
31 increase of hazard); or (e) if this policy be assigned before a loss.
32 Unless otherwise provided by agreement in writing added
33 hereto this Company shall not be liable for loss or damage
34 occurring.
35 (a) while the insured shall have any other
36 **Other insurance.** contract of insurance, whether valid or not,
37 on property covered in whole or in part by this policy; or
38 (b) while the hazard is increased by any
39 **Increase of hazard.** means within the control or knowledge of
40 the insured; or
41 (c) while mechanics are employed in building,
42 **Repairs, etc.** altering or repairing the described premises
43 beyond a period of fifteen days; or
44 (d) while illuminating gas or vapor is gener-
45 **Explosives,** ated on the described premises; or while
46 **gas, etc.** (any usage or custom to the contrary not-
47 withstanding) there is kept, used or allowed on the described
48 premises fireworks, greek fire, phosphorus, explosives, benzine,
49 gasolene, naphtha or any other petroleum product of greater
50 inflammability than kerosene oil, gunpowder exceeding twenty-
51 five pounds, or kerosene oil exceeding five barrels; or
52 (e) if the subject of insurance be a manufac-
53 **Factories.** turing establishment while operated in
54 whole or in part between the hours of ten P. M. and five A. M.,
55 or while it ceases to be operated beyond a period of ten days; or

- 56 (f) while a described building, whether intended for occupancy by owner or tenant, is
 57 **Unoccupancy.** vacant or unoccupied beyond a period of ten days; or
 58 (g) by explosion or lightning, unless fire
 59 **Explosion,** ensue, and, in that event, for loss or damage
 60 **Lightning.** by fire only.
 61 Unless otherwise provided by agreement in
 62 **Chattel mortgage.** writing added hereto this Company shall
 63 not be liable for loss or damage to any property insured here-
 64 under while incumbered by a chattel mortgage, and during the
 65 time of such incumbrance this Company shall be liable only
 66 for loss or damage to any other property insured hereunder.
 67 If a building, or any material part thereof,
 68 **Fall of building.** fall except as the result of fire, all insurance
 69 by this policy on such building or its contents shall immediately
 70 cease.
 71 The extent of the application of insurance
 72 **Added Clauses.** under this policy and of the contribution to
 73 be made by this Company in case of loss or damage, and any
 74 other agreement not inconsistent with or a waiver of any of
 75 the conditions or provisions of this policy, may be provided for
 76 by agreement in writing added hereto .
 77 No one shall have power to waive any pro-
 78 **Waiver.** vision or condition of this policy except such
 79 as by the terms of this policy may be the subject of agreement
 80 added hereto, nor shall any such provision or condition be held
 81 to be waived unless such waiver shall be in writing added hereto,
 82 nor shall any provision or condition of this policy or any for-
 83 feiture be held to be waived by any requirement, act or proceed-
 84 ing on the part of this Company relating to appraisal or to any
 85 examination herein provided for; nor shall any privilege or per-
 86 mission affecting the insurance hereunder exist or be claimed by
 87 the insured unless granted herein or by rider added hereto.
 88 This policy shall be cancelled at any time
 89 **Cancellation** at the request of the insured, in which case
 90 of policy. the Company shall, upon demand and sur-
 91 render of this policy, refund the excess of paid premium above
 92 the customary short rates for the expired time. This policy
 93 may be cancelled at any time by the Company by giving to the
 94 insured a five days' written notice of cancellation with or with-
 95 out tender of the excess of paid premium above the pro rata
 96 premium for the expired time, which excess, if not tendered,
 97 shall be refunded on demand. Notice of cancellation shall state
 98 that said excess premium (if not tendered) will be refunded on
 99 demand.
 100 This Company shall not be liable for a
 101 **Pro rata liability.** greater proportion of any loss or damage
 102 than the amount hereby insured shall bear to the whole
 103 insurance covering the property, whether valid or not and
 104 whether collectible or not.
 105 The word "noon" herein means noon of
 106 **Noon.** standard time at the place of loss or damage.
 107 If loss or damage is made payable, in whole
 108 or in part, to a mortgagee not named herein
 109 **Mortgage** as the insured, this policy may be cancelled
 110 interests. as the insured, this policy may be cancelled
 111 as to such interest by giving to such mortgagee a ten days'
 112 written notice of cancellation. Upon failure of the insured to
 113 render proof of loss such mortgagee shall, as if named as insured
 114 hereunder, but within sixty days after notice of such failure, ren-
 115 der proof of loss and shall be subject to the provisions hereof as

116 to appraisal and times of payment and of bringing suit. On pay-
117 ment to such mortgagee of any sum for loss or damage here-
118 under, if this Company shall claim that as to the mortgagor or
119 owner, no liability existed, it shall, to the extent of such pay-
120 ment be subrogated to the mortgagee's right of recovery and
121 claim upon the collateral to the mortgage debt, but without im-
122 pairing the mortgagee's right to sue; or it may pay the mortgage
123 debt and require an assignment thereof and of the mortgage.
124 Other provisions relating to the interests and obligations of such
125 mortgagee may be added hereto by agreement in writing.

126 The insured shall give immediate notice, in
127 **Requirements in** damage, protect the property from further
128 case of loss. writing, to this Company, of any loss or
129 damage, forthwith separate the damaged and undamaged
130 personal property, put it in the best possible order, furnish a
131 complete inventory of the destroyed, damaged and undamaged
132 property, stating the quantity and cost of each article and the
133 amount claimed thereon; and, the insured shall, within sixty
134 days after the fire, unless such time is extended in writing by
135 this Company, render to this Company a proof of loss, signed
136 and sworn to by the insured, stating the knowledge and belief
137 of the insured as to the following: the time and origin of the fire,
138 the interest of the insured and of all others in the property, the
139 cash value of each item thereof and the amount of loss or dam-
140 age thereto, all incumbrances thereon, all other contracts of in-
141 surance, whether valid or not, covering any of said property,
142 any changes in the title, use, occupation, location, possession, or
143 exposures of said property since the issuing of this policy, by
144 whom and for what purpose any building herein described and
145 the several parts thereof were occupied at the time of fire; and
146 shall furnish a copy of all the descriptions and schedules in all
147 policies and if required, verified plans and specifications of any
148 building, fixtures or machinery destroyed or damaged. The
149 insured, as often as may be reasonably required, shall exhibit
150 to any person designated by this Company all that remains of
151 any property herein described, and submit to examinations
152 under oath by any person named by this Company, and
153 subscribe the same; and, as often as may be reasonably
154 required, shall produce for examination all books of account,
155 bills, invoices, and other vouchers, or certified copies thereof,
156 if originals be lost, at such reasonable time and place as may
157 be designated by this Company or its representative, and shall
158 permit extracts and copies thereof to be made.

159 In case the insured and this Company shall
160 **Appraisal.** fail to agree as to the amount of loss or
161 damage, each shall, on the written demand of either, select
162 a competent and disinterested appraiser. The appraisers
163 shall first select a competent and disinterested umpire; and
164 failing for fifteen days to agree upon such umpire then, on
165 request of the insured or this Company, such umpire shall be
166 selected by a judge of a court of record in the state in which
167 the property insured is located. The appraisers shall then
168 appraise the loss and damage stating separately sound value
169 and loss or damage to each item; and failing to agree, shall
170 submit their differences only, to the umpire. An award in
171 writing, so itemized, of any two when filed with this Company
172 shall determine the amount of sound value and loss or
173 damage. Each appraiser shall be paid by the party selecting
174 him and the expenses of appraisal and umpire shall be paid
175 by the parties equally.

Standard Fire Insurance Policy of the State of
West Virginia

Expires

Property

Amount - - - \$.....

Premium - - - \$.....

.....

No.....

It is important that the written portions of all policies covering the same property read exactly alike. If they do not they should be made uniform at once.

Sec. 68-*continued*. No other or different provision, agreement, condition or clause shall be in any manner made a part of such contract or policy or indorsed thereon or added thereto or delivered therewith, except as follows, to-wit:

First. There may be printed at the head of said policy in the space indicated by the words "space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy" the name of the company, or companies, issuing the policy; the location and place of business thereof; the date of incorporation or organization thereof; whether said company, or companies, are stock or mutual corporations; and such device or devices as the company, or companies, issuing said policy shall desire.

Second. There may be printed at the end of the first page of said policy in the space indicated therefor by the words "space for date and for signatures and titles of officers and agent," the names and titles of the officers executing and attesting the policy, and the words "but this policy shall not be valid until countersigned by the duly authorized agent of the company at " (or the word "manager" in place of the word "agent") and the words "countersigned at this day of, " followed by a blank space for the signature of such duly authorized agent or manager, and the word "agent" or "manager."

Third. There may be printed in the space indicated by the words "space for description of property", or added to the policy at such space by agreement in writing thereon or by rider attached thereto the following: (1) Descriptions and specifications, by schedule or otherwise, of the property covered by the policy; (2) The extent of the application of insurance under the policy; (3) The extent of the contribution to be made under the policy in case of loss or damage; (4) Any other matter necessary clearly to express all the facts and conditions of insurance on any particular risk. *Provided, however*, that no such agreement or rider shall be inconsistent with or a waiver of any of the conditions or provisions of the standard fire insurance policy hereby established, except that in the case of a mortgagee not named in the policy as the insured, such provisions may be added as

43 shall not be inconsistent with or a waiver of any of the pro-
44 visions of the said standard policy relating to mortgage in-
45 terests, but if so added, shall include the provisions of a
46 standard rider or indorsement relating to such interest the
47 form of which shall have been approved by the insurance
48 commissioner and filed in his office as hereinafter provided.

49 *Fourth.* There may be added to the policy, with the ap-
50 proval of the insurance commissioner, any provision which
51 any company issuing a policy is required by law to insert in
52 its policies, not in conflict with the provisions of such "stand-
53 ard fire insurance policy." All such provisions shall be
54 printed in a group apart from the other provisions, agree-
55 ments or conditions of the policy under separate title as fol-
56 lows: "Provisions required by law to be stated in this
57 policy."

58 *Fifth.* If the policy be made by a mutual or other com-
59 pany having special regulations lawfully applicable to its
60 organization, membership, policies or contracts of insurance,
61 such regulations may, with the approval of the insurance
62 commissioner, be written or printed upon, attached or append-
63 ed to the policy, upon the third page of such standard policy,
64 but shall be preceded by the words "This policy is issued by
65 a mutual company having special regulations lawfully appli-
66 cable to its organization, membership, policies or contracts of
67 insurance of which the following shall apply to and form a
68 part of this policy".

69 *Sixth.* Contracts for temporary insurance may be made
70 for a period not exceeding fifteen days, which shall be deemed
71 to include all of the provisions of the standard policy with
72 such agreements and riders in writing added thereto as may
73 be necessary to effect valid insurance of the described prop-
74 erty and such other agreements not inconsistent with or a
75 waiver of any condition or provision of the standard policy
76 as may be expressed in such contract, *except* that the cancella-
77 tion clause of the standard policy shall be superseded by the
78 provisions of any such temporary contract regulating con-
79 cellation or termination of insurance thereunder, and except
80 that where any such contract for temporary insurance shall
81 specify the hour of the day when liability shall commence,
82 such statement of time shall supersede the provisions of such

83 standard fire insurance policy to the contrary, and such
84 statement shall be deemed to refer to standard time at the
85 place of loss or damage.

86 *Seventh.* The standard policy provided for herein need not
87 be used for effecting reinsurance between insurers.

88 *Eighth.* There may be printed upon the filing back of said
89 policy the name of the company or companies issuing the
90 policy; the location and place of business thereof; statement
91 of the amount of capital thereof; such device or devices as
92 the company or companies issuing said policy shall desire,
93 and if the policy be a combination policy, such distinctive title
94 therefor as may be authorized for use as herein provided.
95 There may also be printed, stamped or otherwise indorsed
96 upon the filing back of said policy the name with the word
97 "agent" or "agents" and place of business of any insurance
98 agent or agents. The words at the top of the filing back of
99 said policy, "standard fire insurance policy of the state of
100 West Virginia" may be changed by the use of the word
101 "states" instead of "state" and by adding after the words
102 "West Virginia" the names of any states in which the said
103 policy form shall be standard when the policy is issued.

104 *Ninth.* There may be printed upon said policy form, else-
105 where than upon the first and second pages or the filing
106 back thereof, the names of the officers and directors of the
107 company or companies issuing the said policy, and any form
108 providing for assignment of interest or removal, and any blank
109 form of receipt, approved by the insurance commissioner.

110 The insurance commissioner, either in person or by one or
111 more competent and disinterested persons specially appointed
112 by him for that purpose, shall have access to and may at any
113 time examine the books, papers and documents of any fire
114 insurance corporation doing business in this state, or of any
115 corporation, association or bureau maintained for the purpose
116 of suggesting, approving or making rates to be used by more
117 than one underwriter for insurances on property located in
118 this state, for the purpose of determining the number and
119 extent of use of any riders, indorsements, clauses, permits,
120 forms or other memoranda attached to and made a part of
121 any fire insurance contract relating to property located in
122 this state; and after such examination and inspection such
123 insurance commissioner may determine that the use of any
124 such rider, indorsement, clause, permit, form or other memo-

125 randa is so extensive that there should be in his judgment a
126 standard form thereof, and he shall thereupon prepare and
127 file in his office such standard form of rider, indorsement,
128 clause, permit, form or other memoranda, and thereafter no
129 fire insurance corporation shall attach to any such standard
130 policy of insurance, any rider, indorsement, clause, permit,
131 form or other memoranda covering substantially the same
132 agreement provided for by such standard rider, indorsement,
133 clause, permit, form or other memoranda except it be in the
134 precise language of the form so filed by the insurance com-
135 missioner. Forms of riders, indorsements, clauses, permits,
136 forms or other memoranda to be attached to and made a part
137 of fire insurance contracts relating to property located in this
138 state may be presented for filing in the office of the insurance
139 commissioner by any corporation, association or bureau main-
140 tained for the purpose of suggesting, approving or making
141 rates to be used by more than one underwriter for insurances
142 on property located in this state, and when approved and filed
143 by such insurance commissioner, shall thereupon become
144 standard forms of riders, indorsements, clauses, permits,
145 forms or other memoranda and their use shall be required, as
146 hereinbefore provided. Whenever, in the judgment of the
147 insurance commissioner, there shall be no further necessity
148 for requiring the use of any standard form of rider, indorse-
149 ment, clause, permit, form or other memorandum in the pre-
150 cise language theretofore required, he may give notice in
151 writing of such determination, to each fire insurance cor-
152 poration doing business in this state, and to each such corpora-
153 tion, association or bureau maintained for the purpose of sug-
154 gesting, approving or making rates, as aforesaid, and there-
155 after the use of such standard form shall not be required as
156 herein provided.

157 Appropriate forms of supplemental contract or contracts
158 whereby the property described in such policy shall be in-
159 sured against one or more of the risks specified in section
160 forty of chapter thirty-four of Barnes' code of West Virginia
161 of one thousand nine hundred and sixteen and chapter
162 eighteen of the acts of the legislature of one thousand nine
163 hundred and seventeen, in addition to the risk of direct loss
164 or damage by fire, may be approved by the insurance commis-
165 sioner, and their use in connection with a standard fire insur-

166 ance policy may be authorized by him. *Provided, however,*
 167 that nothing in this act shall relate or apply to farmers'
 168 mutual insurance companies organized under chapter fifty-five
 169 of Barnes' code, one thousand nine hundred and sixteen edi-
 170 tion. The state insurance commissioners may, upon com-
 171 plaint, after hearing, reduce any fire insurance rate that is
 172 excessive.

173 All acts or parts of acts inconsistent with the provisions
 174 of this act are hereby repealed, including sections sixty-seven
 175 and sixty-nine of chapter thirty-four of Barnes' code of West
 176 Virginia of one thousand nine hundred and eighteen.

CHAPTER 19

(Senate Bill No. 239—Mr. Johnson)

AN ACT to amend and re-enact section sixty-one of chapter thirty-four of Barnes' code of one thousand nine hundred and eighteen, relating to the capital and reserve of domestic insurance companies other than fire or life, and to add to said chapter thirty-four, section sixty-two-a, relating to the adjustment of claims of companies doing accident and health insurance business.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC. 61.	Provisions relating to insurance companies other than life or fire; requirements before doing business in state.		SEC. 62-a.	Commissioner empowered to investigate method of adjusting claims; penalty for agent's failure to comply.
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Be it enacted by the Legislature of West Virginia:

That section sixty-one of chapter thirty-four of Barnes' code be amended and re-enacted, and that section sixty-two-a be added to said chapter so as to read as follows:

Section 61. Every insurance company or association, other
 2 than fire or life, incorporated under the laws of this state, and
 3 having its principal office or place of business within this state
 4 shall have a paid-up capital stock of at least one hundred thou-
 5 sand dollars invested in securities as prescribed in section
 6 twenty-eight, whose market value shall be at par, and in ad-
 7 dition thereto shall maintain a reserve equal to the unearned

8 portion of the gross premium charged for covering all risks
9 written, and shall state on the face of its policies or certificates
10 the agreements with the assured; *provided, however*, that acci-
11 dent or accident and health insurance companies which under
12 their policies agree to pay a weekly indemnity, not to exceed
13 thirty dollars per week, and a principal sum not to exceed
14 three thousand dollars, may be licensed to transact business
15 within this state by having a paid-up capital in cash of fifty
16 thousand dollars and, *provided*, their assets are in the opinion
17 of the insurance commissioner, fully sufficient to protect their
18 policy holders, and in other respects they comply with the pro-
19 visions of this section; and *provided, further*, that no insur-
20 ance company shall advertise a greater amount of capital stock
21 than the actual paid-up capital stock of such company, nor
22 print, stamp or otherwise place any advertising matter upon
23 the face of any policy issued.

Sec. 62-a. The insurance commissioner is hereby given
2 power to investigate the method of adjusting all claims and
3 to examine adjusting agents of any company doing accident
4 and health insurance business in the state, and if it be ascer-
5 tained from such investigation and examination, or otherwise,
6 that the profit or pay of any such agent is in any manner con-
7 tingent upon the amount paid upon any claim adjusted by
8 such agent, then the insurance commissioner shall forthwith
9 serve notice upon the agent and such insurance company to
10 discontinue the adjustment of claims by or through such agent,
11 and if the insurance company, after the receipt of such notice,
12 fails to discontinue adjusting claims through such agent the
13 commissioner may cancel the agent's commission and shall re-
14 fuse to renew the authority of such insurance company to
15 transact business within the state.

CHAPTER 20

(Senate Bill No. 401—Mr. Porter)

AN ACT to amend and re-enact section fifteen of chapter thirty-
four of Barnes' code of West Virginia of one thousand nine
hundred and sixteen, relating to discrimination and rebating
by insurance companies and agents.

[Passed April 14, 1923. In effect ninety days from passage. Approved by the Governor April 21, 1923]

<p>Sec. 15. No life insurance company to make discriminations, etc; pen-</p>	<p>alty; insurance commissioner to investigate; compel attendance of witnesses, etc.</p>
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Be it enacted by the Legislature of West Virginia:

That section fifteen of chapter thirty-four of Barnes' code of West Virginia of one thousand nine hundred and sixteen be amended and re-enacted so as to read as follows:

Section 15. No life insurance company doing business in
 2 this state shall make or permit any distinction or discrimina-
 3 tion in favor of individuals of the same class, or of equal ex-
 4 pectations of life, in the amount of payment or return of
 5 premiums or rates charged for policies of insurance, or in the
 6 dividends or other benefits payable thereon, or in any other
 7 of the terms and conditions of the contracts it makes, nor
 8 shall any such company permit, or agent thereof offer or make
 9 any contract of insurance or agreement as to such contract
 10 other than is plainly expressed in the issued policy thereon;
 11 and no company authorized or permitted to do an insurance
 12 business within this state, or any officer, agent, solicitor or
 13 representative thereof shall make any contract for such in-
 14 surance on property or risk located within the state or against
 15 liability, casualty, accident or hazard that may arise or occur
 16 thereon, or agreement as to such contract other than as plainly
 17 expressed in the policy issued, or to be issued thereon; and
 18 no insurance company, association or society, by itself or any
 19 other party, and no insurance agent, solicitor or broker per-
 20 sonally, or by any other party, shall offer, promise, allow, give,
 21 set off or pay, directly or indirectly, any rebate of, or part
 22 of the premium payable on the policy, or on any policy, or
 23 agent's commission thereon, earnings, profits, dividends, or
 24 other benefits founded, arising, accruing or to accrue thereon,
 25 or therefrom, or any other valuable consideration or induce-
 26 ment to or for insurance, on any risk in this state now or
 27 hereafter to be written, which is not specified in the policy
 28 contract of insurance; nor shall any such company, associa-
 29 tion, or society, agent, solicitor, or broker, personally or other-
 30 wise, offer, promise, give, sell or purchase any stocks, securi-
 31 ties or property, or any dividends or profits accruing or to
 32 accrue thereon, or other thing of value whatsoever as induce-
 33 ment to insurance, or in connection therewith which is not

34 specified in the policy. And no insurance agent, solicitor or
35 broker personally, or by any other party, shall directly or in-
36 directly offer a loan through any building association or bank,
37 or in any other way, as an inducement to insurance; nor shall
38 any insurance agent, solicitor or broker require an applicant
39 for a loan to cancel outstanding insurance in admitted and
40 solvent companies; nor shall any insurance agent, solicitor or
41 broker refuse to accept a renewal of a policy offered by the
42 insured because said insurance agent, solicitor or broker rep-
43 resents a building association, bank or other party making
44 the insured a loan; *provided*, the insured protects the lender
45 by proper forms and endorsements on said policies. Upon
46 satisfactory evidence of the violation of the provisions of this
47 section, by any solicitor or agent of any insurance company,
48 the insurance commissioner shall forthwith revoke the cer-
49 tificate of authority of such solicitor or agent, and no license
50 shall be issued to such agent or solicitor within one year from
51 the date of the revocation of such license; and any insur-
52 ance company, association, or society, its officers, solicitors
53 or agents, or any insurance broker violating the provisions
54 of this section of this act, shall be guilty of a misdemeanor,
55 and upon conviction thereof, the offender shall be sentenced
56 to pay a fine of one hundred dollars for each and every vio-
57 lation, or, in the discretion of the court, imprisoned in the
58 county jail of the county in which the offense is committed.
59 for a period of not less than ninety days nor more than six
60 months. No insured person or party shall receive or accept,
61 directly or indirectly, any rebate or premium or part thereof,
62 or agent's, solicitor's or broker's commission thereon, pay-
63 able on the policy, or on any policy of insurance or any favor
64 or advantage or share in the dividend or other benefit to ac-
65 crue thereon, or any valuable consideration or inducement, not
66 specified in the policy contract of insurance. The amount
67 of the insurance whereon the insured has received or accepted,
68 either directly or indirectly, any rebate of the premium,
69 or agent's, solicitor's or broker's commission thereon, shall
70 be reduced in such proportion as the amount or value of such
71 rebate, commission, dividend, or other consideration so re-
72 ceived by the insured, bears to the first premium paid on such
73 policy, and any person insured, in addition to having the
74 insurance reduced, shall be guilty of a misdemeanor, and upou

75 conviction thereof, shall be sentenced to pay a fine of not more
76 than one hundred dollars. It shall be the duty of the insur-
77 ance commissioner to investigate any charges of rebating sub-
78 mitted to him. Said charges shall specify the agent, the com-
79 pany and the party receiving the rebate, and all facts in con-
80 nection with the transaction within his knowledge. Immedi-
81 ately upon the filing of said charges the insurance commis-
82 sioner shall proceed to investigate the same. He shall have
83 power to compel the attendance of witnesses and may ex-
84 amine under oath any person whom he has reason to believe
85 has knowledge of the facts alleged, and the making of any
86 false statements on such examination shall be perjury and
87 punishable as a felony. Nothing in this section shall be so
88 construed as to prohibit any company issuing non-participat-
89 ing insurance from paying bonuses to policy-holders or other-
90 wise abating their premium in whole or in part out of sur-
91 plus accumulated from non-participating insurance, nor to
92 prohibit any company transacting industrial insurance on the
93 weekly or monthly payment plan from returning to policy-
94 holders who have made premium payments for a period of at
95 least one year directly to the company at its home or district
96 office, a percentage of the premium which the company would
97 have paid for the weekly or monthly collection of such
98 premium, nor to prohibit any life insurance company doing
99 business in this state from issuing policies of life or endow-
100 ment insurance with or without annuities at rates less than
101 the usual rates of premiums for such policies, insuring mem-
102 bers of organizations or employes of any employer, who
103 through their secretary or employer may take out insurance
104 in an aggregate of not less than fifty members and pay their
105 premiums through such secretary or employer, nor to prohibit
106 any person, partnership or corporation or stockholders there-
107 of, from carrying their insurance, at the full premium rate,
108 with and through an insurance agency in which they are
109 interested.

CHAPTER 21

(Senate Bill No. 402—Mr. Porter)

AN ACT to amend chapter thirty-four of Barnes' code of one thousand nine hundred and sixteen, by adding thereto section sixty-a-(9), making it unlawful for any domestic insurance company to do business in any other state or territory of the United States in which it has not first been legally admitted and authorized by the laws of said state or territory.

[Passed April 12, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

Sec.

60-a. (9) License required to do business in other states; penalty for violation.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-four of Barnes' code of West Virginia of one thousand nine hundred and sixteen be amended by adding thereto section sixty-a-(9), to read as follows:

Section 60-a-(9). It shall be unlawful for any domestic
 2 insurance company, duly qualified under the laws of this state,
 3 to do business in any other state or territory of the United
 4 States without being first legally admitted and authorized so
 5 to do under the laws of said state or territory. For violation
 6 of this section by any such insurance company, the insurance
 7 commissioner may revoke the license or authority of such com-
 8 pany doing business in this state, and may require said com-
 9 pany to pay the taxes upon said business so unlawfully writ-
 10 ten to the state or territory in which said business was so writ-
 11 ten as provided by the laws of such said state or territory.

CHAPTER 22

(Senate Bill No. 206—Mr. Darnall)

AN ACT authorizing courts having jurisdiction of criminal cases, also justices of the peace, to credit any person convicted of crime, with the days of imprisonment served by such person awaiting trial.

[Passed April 20, 1923. In effect from passage. Approved by the Governor
April 26, 1923]

SEC.

1. Time spent in jail awaiting trial
to be credited on sentence.

Be it enacted by the Legislature of West Virginia:

Section 1. Whenever any person is convicted of an offense
2 in a court of this state having jurisdiction thereof, and
3 sentenced to confinement in any jail or the penitentiary of this
4 state, or by a justice of the peace having jurisdiction of the
5 offense, such person may, at the discretion of the court or jus-
6 tice, be given credit on any sentence imposed by said court or
7 justice for the term of confinement spent in jail awaiting such
8 trial and conviction.

CHAPTER 23

(Senate Bill No. 246—Mr. White of Mingo)

AN ACT to amend and re-enact section three of chapter twenty-six
of the acts of one thousand nine hundred and fifteen, as amend-
ed by the acts of one thousand nine hundred and nineteen, con-
cerning the election and duties of political committees.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the
Governor May 1, 1923]

SEC.

- | | |
|---|--|
| 3. Political parties; executive com-
mittees therefor; term of office; | vacancies; meetings; powers and
duties. |
|---|--|

Be it enacted by the Legislature of West Virginia:

Section 3. For the purpose of this act, there shall be chosen
2 at the May primary for each political party, as hereinafter
3 provided, a state executive committee consisting of two commit-
4 teemen and two committeewomen from each senatorial district
5 to be selected by the party voters in such district, and not more
6 than two of whom shall be residents of the same county; *pro-*
7 *vided, however,* that the committee elected shall appoint three
8 additional committeemen at large and there shall be a congres-
9 sional executive committee and a state senatorial executive com-
10 mittee for each of the respective congressional and state senator-
11 ial districts, each committee to consist of one committeeman and
12 one committeewoman from each county in the respective districts

13 to be elected by the party voters of such county; and a county
14 executive committee consisting of two committeemen and two
15 committeewomen from each magisterial district therein, except
16 that in any county containing a city of ten thousand or more pop-
17 ulation there shall be chosen one committeeman and one commit-
18 teewoman of the committee from each ward of such city in ad-
19 dition to the members chosen from the magisterial district in
20 which such city is situated. All members of executive com-
21 mittees selected for each political division, as herein provided,
22 shall reside within the county or district, senatorial or magis-
23 terial, from which chosen; *provided, however*, that any politi-
24 cal party which polled less than ten per cent of the total vote
25 cast for governor at the last or preceding general election, or
26 any group of citizens, may nominate candidates and elect
27 committees for any political division either by party conven-
28 tions or in accordance with the provisions of section twenty-
29 three of this act; *provided, however*, that such nominations must
30 be made and the certificates filed within twenty days after said
31 primary election.

32 The term of office of all committeemen and committeewomen
33 so elected shall begin on the fifteenth day of June, succeeding
34 said May primary, and shall continue for four years thereafter
35 and until their successors are elected and qualified. Vacancies
36 in the state executive committee shall be filled by the members
37 of the committee for the unexpired term. Vacancies in the con-
38 gressional, judicial, senatorial and county executive committee
39 shall be filled by the executive committees of the county in
40 which such vacancy exists, and shall be for the unexpired term.

41 As soon as possible after the fifteenth of June, succeeding the
42 election of the new executive committees, as herein provided,
43 they shall convene within their respective political divisions, on
44 the call of the chairman of corresponding outgoing executive
45 committees, and proceed to select a chairman, a treasurer, and a
46 secretary, each of which officers shall for their respective com-
47 mittees perform the duties that usually appertain to such of-
48 fices.

49 The various executive committees and officers thereof, now in
50 existence shall exercise the powers and possess the duties herein
51 provided until their successors are chosen in accordance with
52 this act.

CHAPTER 24

(Senate Bill No. 420—Mr. Hill)

AN ACT to amend and re-enact section six of chapter two of the acts of the legislature of one thousand nine hundred and twenty, extraordinary session, relating to compensation of election officers.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.
6. Salaries of election officers.

Be it enacted by the Legislature of West Virginia:

That section six of chapter two of the acts of the legislature of one thousand nine hundred and twenty, extraordinary session, be amended and re-enacted so as to read as follows:

Section 6. Every commissioner of election, poll clerk, challenger and ballot commissioner shall be allowed a sum to be fixed by the county court, but not to exceed five dollars for each day he shall serve as such, including the time necessary to receive and deliver the ballots, ballot boxes, poll books and tally sheets; *provided*, the ballot commissioners shall not receive an allowance for more than two days.

CHAPTER 25

(House Bill No. 109—Mr. Beneke)

AN ACT to amend and re-enact sections five and twenty-six-a (33), of chapter three of Barnes' code of West Virginia, of one thousand nine hundred and twenty-three, relating to election precincts and double election boards.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

SEC.
5. Election precincts. | creation of; acts in conflict repealed.
26-a (33) Double election boards; |

Be it enacted by the Legislature of West Virginia:

Section 5. The county court of each county in this state shall, at their first session after the taking effect of this act, divide the magisterial districts of their respective counties into election precincts, number the same, establish the boundaries thereof, and designate at least one place of holding elections in each magisterial district. Every magisterial district, in which only one

7 place of holding elections is designated, shall constitute a pre-
8 cinct. There shall be but one voting place in a precinct, which
9 shall be established as near as possible at the place most conven-
10 ient for the voters of the precinct.

11 Each precinct within any incorporated city or town shall con-
12 tain as nearly as practicable six hundred electors, based on the
13 number of votes cast at the last general election; but no pre-
14 cinct in any incorporated city or town shall contain more than
15 six hundred electors. Each precinct outside of the limits of any
16 incorporated city or town shall contain as nearly as practical
17 two hundred electors, based on the number of votes cast at the
18 last general election; but no precinct outside of the limits of
19 any incorporated city or town shall contain more than five hun-
20 dred and fifty electors and not less than one hundred electors. If,
21 at any election hereafter held, six hundred or more votes shall be
22 cast at any voting place within any incorporated city or town,
23 or five hundred and fifty and not less than one hundred votes
24 shall be cast at any voting place outside of the limits of any in-
25 corporated city or town, it shall be the duty of the county court
26 to, and it shall within sixty days after such election re-arrange
27 the precincts within the political division so that the new pre-
28 cincts formed therefrom, or from any part thereof, shall each
29 contain, within the limits of any incorporated city or town, not
30 to exceed six hundred electors and outside of the limits of any
31 incorporated city or town not to exceed five hundred and fifty
32 electors and not less than one hundred electors, as nearly as prac-
33 ticable. If such county court fail to act within sixty days after
34 the date of such election as herein directed any qualified voter
35 of the county may apply for a writ of mandamus to compel a
36 performance of this duty.

Sec. 26-a (33). At all general and primary elections in
2 this state, for every voting precinct in which were cast an aggre-
3 gate of two hundred or more votes by all parties voting in said
4 primary or general election in any general election held, there
5 shall be two boards of election officers, each board consisting of
6 three election commissioners and two poll clerks, one board to be
7 known as the "receiving board" and the other board to be
8 known as the "counting board". Not more than two commis-
9 sioners and one poll clerk of each board shall be appointed from
10 the same political party.

11 All acts or parts of acts inconsistent herewith are hereby re-
12 pealed.

CHAPTER 26

(Senate Bill No. 271—Mr. White of Lewis)

AN ACT to amend and re-enact section twenty-one of chapter fifty-four of Barnes' code of one thousand nine hundred and eighteen, relating to the increase or decrease of capital stock, change of name, chief works or principal office of corporations.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.	21. Corporation may change office; |	increase stock or par value of
	chief works, name; reduce or	same; notice and publication;
		license tax to be paid.

Be it enacted by the Legislature of West Virginia:

That section twenty-one of chapter fifty-four of Barnes' code of one thousand nine hundred and eighteen, relating to the increase or decrease of capital stock, change of name, chief works or principal office of corporations, be amended and re-enacted so as to read as follows:

Section 21. Any corporation formed, or which may here-
 2 after be formed, or which has accepted or may accept the pro-
 3 visions of this chapter, may, by resolution at any general or
 4 special meeting of the stockholders thereof, change the place
 5 of its principal office, or its chief works, or change its name, or
 6 make such reduction or increase in the number of shares of its
 7 capital stock, or the par value of each share, as may be decided
 8 upon by said stockholders, a majority of the stock of such com-
 9 pany being represented by the holders thereof at such meeting
 10 in person, or by proxy, and voting therefor; *provided*, that
 11 notice be given by advertisement published at least two weeks
 12 before such action in some newspaper of general circulation
 13 printed in the county wherein the principal office of such cor-
 14 poration is located, if such office be within this state, and if
 15 such office be not within this state, then in some newspaper
 16 printed at the capital of this state, of the intention to offer such
 17 resolution; and, *provided, further*, that said resolution may be
 18 adopted without such notice being published, if the meeting at
 19 which it be adopted be assented to in writing by all the stock-
 20 holders of the company at the time or before the meeting is
 21 held; *provided, however*, that no corporation shall be allowed
 22 to change its name, increase or decrease its capital stock, or do

23 anything affecting its articles of agreement, until it has paid
 24 to the auditor, all license tax due the state of West Virginia,
 25 up to and including the current fiscal year. Before the secretary
 26 of state shall issue a certificate authorizing an increase of cap-
 27 ital stock, he shall collect from the corporation license tax on the
 28 amount of such increase according to the rates prescribed by
 29 law, *except*, that if the certificate authorizing the increase be
 30 issued during the month of May or June, the secretary of state
 31 shall collect from such corporation, on the increase for the en-
 32 suing year, in addition to the tax for May and June of the then
 33 current year, and pay the same into the state treasury as pro-
 34 vided by law; but on such increase a resident corporation shall
 35 not pay less than five dollars, and a non-resident corporation
 36 shall not pay less than ten dollars.

CHAPTER 27

(Senate Bill No. 274—Mr. Bowers)

AN ACT to amend and re-enact sections three, four, nine and ten of chapter one hundred and thirty-four, of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, relating to neglected or dependent children, and to add thereto a new section to be known as section twenty-three, and provide for punishment of superintendents of county infirmaries.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 3. Board to make by-laws, etc; appoint officers, etc., number and sex of agents.</p> <p>4. To take custody and control of children as follows:</p> <p>- (a) Dependent children; definition of.</p> <p>(b) Neglected children; definition of.</p> <p>(c) (a) and (b) on petition to courts may be placed in custody of board; notice; physical and mental examination.</p> <p>(d) Expenses of; county court to pay.</p> <p>(e) Investigation by board of application.</p>	<p>SEC. (f) Acts construed for proper guardianship.</p> <p>(g) Children declared public wards to remain so until they reach majority.</p> <p>9. Board may place children in private homes.</p> <p>10. Investigation and reports of paroled youths by board; other investigations by board when requested; cases covered to have medical and surgical examinations; expenses paid by county court.</p> <p>23. No child to be placed in infirmary for other than temporary care; notice to board and board of control; penalty for violations; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That sections three, four, nine and ten of chapter one hundred and thirty-four of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one be amended and re-enacted so as to read as follows, and that a new section be added thereto to be known as section twenty-three, to read as hereinafter set forth.

Section 3. The board shall make such by-laws, rules and 2 regulations, relative to its management, government and work 3 not contrary to law as it may deem proper, and shall appoint 4 such officers, employees and general and district agents as it 5 may deem necessary to carry on the operations of said board. 6 designating their duties and fixing their compensation; *pro-* 7 *vided*, that at least one-half such agents shall be women.

Sec. 4. It shall be lawful for the board, its officers or 2 agents, to take or receive into custody or control children as 3 hereinafter provided.

4 (a) The term dependent children, as used herein or in any 5 statute concerning the care, custody or control of children, 6 shall mean any boy under the age of sixteen years and any 7 girl under the age of eighteen years, who is dependent upon 8 public charity or who is destitute, homeless, or abandoned.

9 (b) The term neglected children as used herein, shall mean 10 any boy sixteen years or under or any girl eighteen years or 11 under who has not proper parental care or guardianship; or 12 who habitually begs or receives alms, or who is found living in 13 any house of ill-fame, or with any vicious or disreputable per- 14 sons; or whose home by reason of neglect, cruelty or disrepute 15 on the part of its parents, guardians or other persons in whose 16 care it may be, is an improper place for a child to live, or whose 17 environment is such as to warrant the state in the interest of 18 the child in assuming its guardianship.

19 (c) Whenever the board, any member, officer or agent 20 thereof or any reputable person shall have probable cause to 21 believe that a child is dependent, neglected, abandoned or 22 cruelly treated, said board member, officer, agent or person 23 may at any time present a petition setting forth such facts, 24 verified by the oath of some credible person having a personal 25 knowledge thereof, to the circuit, common pleas, criminal, in- 26 termediate or juvenile court (or to the judge thereof in va- 27 cation) of the county in which said child resides, which or who

28 may require such child to be delivered into the custody of said
29 board, or such other custody as the court or judge may deem
30 proper, to care for such child until a hearing can be had upon
31 such petition; and reasonable notice of the time and place of
32 such hearing shall be given to the local district agent of such
33 board and served upon the person from whose custody said
34 child was taken, or who is sought to be deprived of the custody
35 of said child; and such agent or any parent or other persons
36 legally entitled to stand in *loco parentis* or other relative of
37 such child may appear and be heard at such hearing.

38 If the facts set forth in said petition, constituting depend-
39 ency or neglect, shall, on the hearing, be maintained, and it
40 shall appear to the judge or court that the interest and wel-
41 fare of such child require the custody thereof to be changed,
42 the judge or court shall order the custody thereof changed,
43 and may by order commit the child to the care of said board.

44-45 All children committed to the board shall first receive
46 a physical and mental examination based upon blank
47 forms to be provided by said board. All pertinent information
48 adduced or developed at such hearing regarding the history
49 and situation of the child, its parents and forebears shall be
50 supplied by the court or judge to the board at the time of its
51 commitment, on blank forms to be provided by the said board,
52 to enable the board to deal intelligently with the child and
53 eventually to provide the child with such information as is
54 deemed advisable by the said board. All such information
55 shall be kept by the board in permanent form and shall be in
56 the custody of its secretary. Such record shall be open to in-
57 spection only by permission granted by said board.

58 (d) The costs and expenses necessary for proper work in
59 connection with family case work investigation and a hearing
60 or commitment under this act shall be a proper charge against
61 the county in which the hearing is held, and shall be paid by
62 the county court thereof upon submission to it of any itemized
63 statement thereof verified by affidavit of an agent of the board.
64 The fees allowed for such hearings shall be the same as are
65 allowed in proceedings for the commitment of boys to the West
66 Virginia Industrial School for Boys.

67 (e) Whenever application is made to the board to accept
68 the care and custody of children hereunder, said board shall
69 make a careful and thorough investigation, and, if it is found
70 that it is a case of a poor but otherwise worthy parent or guar-

71 dian, the board may upon application to said court or judge
72 secure an order for the maintenance of said parent and chil-
73 dren, which maintenance, when so fixed, shall be a proper
74 charge against the county in which such parent and children
75 reside and shall be paid by the county court thereof, and fur-
76 nished under the mother's pension act or otherwise according
77 to law.

78 (f) This act shall be liberally construed to the end that
79 proper guardianship may be provided for such children as are
80 hereinbefore described, and that said children may be edu-
81 cated, and cared for, as far as practicable, in such manner as
82 best subserves their moral, intellectual and physical welfare.
83 and as far as practicable in proper cases that the parent or
84 persons having such children in their care, custody or control
85 may be enabled and compelled to perform their moral and
86 legal duty in the interests of such children.

87 (g) All children declared public wards under the pro-
88 visions of this act shall remain public wards until they reach
89 the age of twenty-one years, unless they shall upon a proper
90 showing made be returned by order of the board to their par-
91 ents, or other guardian, or shall be appointed in the manner pre-
92 scribed by law.

93 (h) All children declared public wards under provisions
94 of this act who afterward become delinquent, shall be returned
95 to the committing officer of the county from which the child
96 was received, and all such children who are found to be men-
97 tally defective, shall be returned to the county from which re-
98 ceived to be examined by the county mental hygiene committee.

Sec. 9. Said board may, when in its discretion it shall ap-
2 pear proper, place any of said children in suitable private
3 homes, and in such cases the said board and the person or per-
4 sons with whom said child or children are placed, shall ob-
5 serve and be governed by all of the provisions of the laws of
6 this state concerning the placing of children in private homes,
7 and the rules and regulations of said boards, and when neces-
8 sary said board may place such children as need special care
9 or supervision in private boarding homes temporarily.

Sec. 10. The said board shall, upon the request of the state
2 board of control, make investigation, visitation and reports to
3 the state board of control, as to all youths paroled from the
4 state industrial home for girls, the state industrial school for
5 boys or the state colored orphans' home or the home to or in

6 which youths from said institutions are about to be or have
7 been paroled or placed. Said board shall also, upon the re-
8 quest of the state board of control, make family case work in-
9 vestigation of youths who are mentally defective.

10 Said board may upon the request of the principal of the
11 schools for the deaf, dumb and blind, also investigate applica-
12 tions for admission to such schools and, upon request of the
13 state board of control, investigate applications for admission
14 to the state hospitals for orthopedic treatment, and in all such
15 cases covered by this paragraph said board shall have authority
16 to procure proper medical and surgical examinations; and all
17 expenses of such examinations and of transportations of the
18 applicant to the hospital and therefrom to the home of the
19 applicant shall be a proper charge against the county from
20 which the applicant comes, and shall be allowed by the county
21 court thereof, upon the submission to it of an itemized state-
22 ment of such expenses, verified by the affidavit of an agent of
23 said board.

Sec. 23. No alleged dependent, neglected or abandoned child
2 shall be placed in a county or district infirmary in the state for
3 other than temporary care, and then only when a written noti-
4 fication is made to the state board of children's guardians not
5 later than three days after a child enters the home.

6 In like manner the state board of control must be notified
7 of the placement of any mental defective in the county or dis-
8 trict home.

9 If the superintendent of the county or district infirmary
10 fails to make such notification to the state board of children's
11 guardians or the state board of control, he or she shall be guilty
12 of a misdemeanor and shall be fined not less than ten dollars
13 nor more than twenty-five dollars for each offense.

14 All acts and parts of acts in conflict herewith are hereby
15 repealed.

CHAPTER 28

(Senate Bill No. 295—Mr. Hill)

AN ACT to amend and re-enact sections two, nine, ten and eleven
of chapter forty-six-b of Barnes' code of one thousand nine
hundred and eighteen, relating to mothers' pensions:

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

Sec. 2. Who may file application for relief. 9. Hearing; order of payment duty of court.	Sec. 10. Amount of allowance. 11. Conditions upon which relief is granted; acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That sections two, nine, ten and eleven of chapter forty-six-b of Barnes' code of one thousand nine hundred and eighteen be amended and re-enacted so as to read as follows:

Section 2. A woman whose husband is dead or whose 2 husband has been permanently incapacitated for work by reason 3 of mental or physical infirmity or a woman who has been 4 abandoned, a woman who is the mother of one or more children 5 under the age of fourteen years or is the mother of one or more 6 children under the age of sixteen years who are not eligible for 7 a working permit under the acts of one thousand nine hundred 8 and nineteen, chapter seventeen, may file application for relief 9 under this act, *provided*, such mother is a citizen of the United 10 States of America, has a *bona fide* residence in this state for a 11 period of two years, and in the county in which application 12 is made for a period of one year previous to the filing of such 13 application.

Sec. 9. Upon the hearing in court of an application under 2 this act the court, being advised in the premises, finding the 3 facts alleged in the application to be true, shall make an order 4 to pay the mother of said children in whose behalf the appli- 5 cation is filed, the amount of money necessary to enable the 6 mother to properly care for such children, such sum however 7 shall not exceed the amount hereinafter fixed and it shall be 8 the duty of the county court to provide for the payment there- 9 of to such mother, at such time as said order may designate. 10 the amount so specified in said order for the care of such chil- 11 dren until further order of the court. During the month pre- 12 ceding the end of each fiscal year the county court shall recon- 13 sider all cases that are then receiving mothers' pensions or 14 poor relief and shall enter orders fixing the aid to be given 15 during the ensuing fiscal year. Such payments shall be made 16 by order drawn by the court on the sheriff of said county pay- 17 able out of the county fund.

Sec. 10. The allowance made to such mother shall be such as 2 in the judgment of the court will provide such mother and

3 her children with the necessities of life, and to enable her to
4 keep her children at home, not to exceed a maximum of forty-
5 five dollars per month.

Sec. 11. Such relief shall be granted by said court upon the
2 following conditions only:

3 (a) The children for whose benefit the relief is granted
4 must be living with such mother.

5 (b) The court must find that it is for the welfare of the
6 children to remain at home with the mother.

7 (c) The relief shall be granted only when in the absence
8 of such relief the mother would be required to work regularly
9 away from her home and children and when by means of such
10 relief she will be able to remain at home except she may be
11 absent at work a definite number of days each week to be
12 specified in the court's orders when such work can be done
13 without the sacrifice of her health and the neglect of home
14 and children.

15 (d) Such mother must in the judgment of the court, be
16 a proper person physically, mentally and morally to bring up
17 her children.

18 (e) The relief granted shall be in the judgment of the court
19 necessary to save the children from neglect.

20 (f) A mother shall not receive such relief who is receiving
21 from the workmen's compensation fund, from property, rela-
22 tives or any other source an amount equal to the maximum
23 amount which may be allowed under this law.

24 (g) The mother shall not receive relief who has not re-
25 sided in the state of West Virginia at least two years next
26 preceding the filing of such application and who has not been
27 a *bona fide* resident of the county in which application is
28 made for a period of one year preceding the filing of such ap-
29 plication.

30 (h) A mother shall not receive such relief if she harbors
31 or permits to remain in her home any adult person not a
32 member of her family.

33 (i) Satisfactory reports must be given by the teacher of
34 the district school stating that the children of the recipient of
35 this fund are attending school provided they are of the proper
36 age and physically able to do so.

37 All acts in conflict with this act are hereby repealed.

CHAPTER 29

(Senate Bill No. 328—Mr. Shinn)

AN ACT to amend and re-enact sections four and thirty-seven of chapter thirty-two-a of Barnes' code, of one thousand nine hundred and eighteen as amended by chapter one hundred and fifteen of the acts of one thousand nine hundred and twenty-one, and section fourteen of chapter thirty-two-a of the said code as amended by chapter one hundred and eight of the acts of one thousand nine hundred and nineteen, and section thirty-two of chapter thirty-two-a of the said code, all relating to prohibition of the manufacture, sale, storage, furnishing and carriage of liquors, and the confiscation of property used for the unlawful transportation of such liquors; and to further amend said chapter thirty-two-a of the code by enacting as additional thereto three sections to be numbered sections thirty-eight, thirty-nine and forty, relating to possession of weapons in connection with violations of the prohibition laws, manufacture and sale of stills, and impersonation of prohibition officers, and providing penalties in relation thereto.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

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| <p>4. What things act does not prohibit; affidavit required of purchaser of wine for sacramental purposes; sales to certain persons prohibited; permits and fees for same; form of indictments against druggist; penalty.</p> <p>37. Unlawful to own, operate, maintain or have in possession "moonshine" still"; same defined; a penalty; abetting another; penalty; form of in-</p> | <p>dictment; possession of moonshine liquor a misdemeanor; penalty; violator immune from prosecution, when; making of other concoctions prohibited; penalty; form of indictment; other sections to apply as far as applicable; justice authorized to accept bond from person held for felony; moonshine stills, etc. to be destroyed; acts in conflict repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That sections four and thirty-seven of chapter thirty-two-a of Barnes' code of one thousand nine hundred and eighteen as amended by chapter one hundred and fifteen of the acts of one thousand nine hundred and twenty-one, and section fourteen of chapter thirty-two-a of the said code as amended by chapter one hundred and eight of the acts of one thousand nine hundred and nineteen, and section thirty-two of chapter thirty-two-a of the code, all relating to prohibition of the manufacture, sale, storage, furnishing and carriage of liquors, and the confiscation of property used for the unlawful transportation of such liquors; and to further amend said chapter thirty-two-a of the code by enacting as

additional thereto three sections to be numbered sections thirty-eight, thirty-nine and forty, relating to intoxication in public, possession of weapons in connection with violations of the prohibition laws, manufacture and sale of stills, and impersonation of prohibition officers, be amended, re-enacted and added so as to read as follows:

Section 4. The provisions of this act shall not be construed to prevent any one from manufacturing (other than by "moonshine still") from fruit grown exclusively in this state, non-intoxicating wine for his own domestic consumption; 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 of pure grain alcohol, at wholesale to druggists, hospitals, sanitariums, laboratories and manufacturers for medicinal, pharmaceutical, scientific and mechanical purposes, or of wine for sacramental purposes by religious bodies. or to prevent the sale and keeping and storing for sale by druggists of wine for sacramental purposes, by religious bodies, or any United States pharmacopœia 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; or to prevent the sale by druggists, through pharmacists of pure grain alcohol for medicinal, scientific, pharmaceutical and mechanical purposes; or to prevent the use of such alcohol by physicians, dentists and veterinarians in the practice of their profession; or to prevent the medication and sale of pure grain alcohol according to formulae and under regulations of the national prohibition act; or to prevent the purchase and use in the manufacture of medicinal preparations and compounds by wholesale druggists only of sherry wine in quantities not exceeding twenty-five wine gallons during any period of ninety days; *provided*, that no one shall manufacture, sell, keep for sale, purchase or transport any liquors, as defined in section one of this act and as herein excepted, without first obtaining a permit from the commissioner so to do. Forms of application and permits shall be prepared by the commissioner and a fee for each permit issued shall be collected by him as follows: (a) all manufacturers of liquors and wholesale dealers therein shall pay a fee of fifty dollars for each permit; (b) all purchasers in wholesale

36 quantities of ethyl alcohol in any form, whether pure, medi-
37 cated, or denatured for use as herein provided, shall pay a fee
38 of ten dollars for each permit; (c) all purchasers in wholesale
39 quantities of liquors as defined in section one, for sale at retail,
40 except duly licensed druggists, shall pay a fee of two dollars for
41 each permit; (d) all persons except duly licensed druggists
42 registering stills and given permits to use the same for lawful
43 purposes shall pay a fee of five dollars for each permit. No
44 fee shall be required for a permit to obtain wine for sacra-
44-a mental or religious rites.

45 Permits shall be issued for the calendar year and shall expire
46 on the thirty-first day of December next following the issuance
47 thereof. All moneys received by the commissioner under this
48 section shall belong to the state and shall be by him immediately
49 paid into the state treasury; and, *provided, further*, that such
50 liquors are manufactured, sold, kept for sale, transported and
51 used under permits issued by the federal prohibition commis-
52 sioner and in accordance with regulations issued in pursuance
53 of the "national prohibition act."

54 It shall be lawful for a druggist to sell wine for sacramental
55 purposes of religious bodies, to any person, not a minor, and
56 who is not of intemperate habits, or addicted to the use of nar-
57 cotie drugs, who shall, at the time and place of such sale, make
58 an affidavit in writing signed by himself before such druggist,
59 or a registered pharmacist at the time and place in the employ
60 of such druggist, stating the quantity and the time and place
61 and fully for what purpose and by whom such wine is to be
62 used; that affiant is not of intemperate habits or addicted to
63 the use of any narcotic drug; and that such wine is not to be
64 used as a beverage, or for any purpose other than that stated
65 in such affidavit. Such affidavit shall be filed and preserved
66 by such druggist and be subject to inspection at all times by
67 any state, county or municipal officer, and a record thereof
68 made by such druggist in the record book mentioned in this
69 section, showing the date of the affidavit, by whom made, the
70 quantity of such wine and when, where, for what purpose, and
71 by whom to be used. Only one sale shall be made upon such
72 affidavit, and only in the county where the same is made, and
73 no greater quantity than is therein specified. For the purpose
74 of this act, any druggist or registered pharmacist making such
75 sale shall have authority to administer such oath.

76 If any druggist, owner of a drug store, registered pharmacist,
 77 clerk or employe shall upon such affidavit, or otherwise, know-
 78 ingly sell or give any such wine to any person who is of in-
 79 temperate habits or addicted to the use of any narcotic drug, or
 80 knowingly sell or give the same to any one to be used for any
 81 purpose other than that named in said affidavit, or who shall
 82 sell or give any wine without such affidavit, he shall be deemed
 83 guilty of a misdemeanor and punished by a fine of not less than
 84 one hundred nor more than five hundred dollars and confined
 85 in the county jail not less than thirty days nor more than six
 86 months. In any prosecution against a druggist, owner of a
 87 drug store, registered pharmacist, clerk or employe, for selling
 88 or giving liquor contrary to law, if a sale or gift be proven, it
 89 shall be presumed that the same was unlawful in the absence
 90 of satisfactory proof to the contrary and the presentation of
 91 such affidavit by the defendant at the time of the trial for such
 92 sale or gift, shall be sufficient to rebut the presumption arising
 93 from the proof of such sale or gift. *Provided*, the jury shall
 94 believe, from all the evidence in the case that such sale or gift
 95 was made in good faith under the belief that such affidavit and
 96 statements therein were true; and, *provided, further*, that such
 97 druggist, owner of a drug store, registered pharmacist, clerk or
 98 employe shall have complied with all other provisions of this
 99 act relating to the sale or gift.

100 An indictment against any druggist, registered pharmacist,
 101 clerk or employe, for any offense committed under the provis-
 102 ions of this section, shall be sufficient, if in the form and effect
 103 following:

104 State of West Virginia,

105 County of, to-wit:

106 In the circuit court of said county:

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

Sec. 14. All houses, boat houses, buildings, club rooms, and
 2 places of every description, including drug stores, where
 3 liquors are manufactured, stored, sold or vended, given away,
 4 or furnished in any way contrary to law (including houses in
 5 which clubs, orders, or associations, shall barter, give away,

6 distribute, or dispense liquors to their members by any means
7 or device whatever, as provided in section six of this act),
8 shall be held, taken and deemed common and public nuisances.

9 All boats, cars, automobiles, wagons, water and air craft, beasts
10 of burden, or vehicles of any kind in connection with which
11 liquors are had, kept or possessed for the purpose of trans-
12 portation, or carrying, in any way, contrary to law shall be
13 held, taken and deemed common and public nuisances. Boats,
14 cars, (including railroad and traction passenger cars operating
15 in this state), automobiles, wagons, water and air craft,
16 beasts of burden; or vehicles of any kind, shall be taken and
17 deemed as places within the meaning of this act, and may be
18 proceeded against under the provisions of section seventeen.

19 Any person who shall maintain, or shall aid or abet, or know-
20 ingly be associated with others in maintaining such common
21 and public nuisances, shall be guilty of a misdemeanor, and
22 upon conviction thereof, shall be punished by a fine of not less
23 than one hundred nor more than five hundred dollars, and by
24 imprisonment in the county jail not less than sixty days nor
25 more than six months for each offense, and judgment shall be
26 given that such house, building, or any room therein, or other
27 place, be abated or closed up as a place for the sale or keeping
28 of such liquors contrary to law, as the court may determine.

29 All automobiles, cars, boats, (other than railway cars, street
30 cars and steamboats), wagons, water and aircraft, beasts of
31 burden, or vehicles of any kind that are used to bring or carry
32 liquors into the state, or from one place to another within the
33 state, or that are known or found to contain liquors while in,
34 on, or operating upon any street, alley, road, highway, or water
35 course or stored in any garage or other storage place, or in any
36 other place, whether such liquors are in possession of passen-
37 gers or occupants of any such vehicle or otherwise, shall be sub-
38 ject to seizure, forfeiture, and confiscation by the state. Any
39 state, county, district, or municipal officer whose duty it is to
40 enforce the provisions of chapter thirty-two-a of Barnes' code
41 of West Virginia, shall seize and take into his custody any
42 automobile, car, boat (other than railway cars, street cars and
43 steamboats), wagon, water and aircraft, beast of burden, or
44 other vehicle that is being used as a container or conveyance of
45 liquor, whether said liquors are upon the persons and in the
46 actual custody of the passengers or occupants of any such ve-
47 hicle of conveyance or otherwise. Upon the seizure of any prop-

48 erty under the provisions of this section, any person in charge
49 thereof or any one transporting, possessing, or storing liquors
50 therein or thereon, shall be arrested. The officer making the
51 seizure shall immediately make report in triplicate giving the
52 officer's name, time and place of seizure, inventory of property,
53 articles and liquors taken into possession, and one copy thereof
54 shall be given to the person from whom the goods are taken,
55 one copy shall be filed with the circuit clerk of the county in
56 which the property is seized and one shall be forwarded to the
57 state commissioner of prohibition. Said officer, if not the
58 sheriff, shall immediately deliver to the sheriff of the county the
59 property seized and take the sheriff's receipt therefor in dupli-
60 cate, and such sheriff shall hold the property so seized until
61 the same shall be disposed of by proper orders of the court hav-
62 ing jurisdiction. All liquors so seized shall be destroyed as the
63 law provides, and the sheriff shall be liable on his bond for the
64 safe keeping of all such property so turned over to him. The
65 proper costs of seizing and holding said property shall be paid
66 out of the funds arising from confiscations under this section
67 as hereinafter provided. The prosecuting attorney shall at
68 once proceed against the persons arrested in connection with
69 the property so seized in violation of the provisions of
70 this section. The court upon conviction of the person or per-
71 sons so arrested, shall, unless good cause to the contrary be
72 shown by the owner, declare the property so seized to be for-
73 feited to the state, and order the same to be sold at public
74 auction by the sheriff of the county; whereupon the clerk shall
75 certify the court's order to the sheriff, who shall make sale of
76 the property thereunder, in the manner provided by law for
77 sales under execution, and after deducting the expenses of
78 keeping the property, the fee for the seizure, and the costs of the
79 sale, shall pay all liens, according to their priorities, which are
80 established by intervention or otherwise at said trial, or in other
81 proceedings brought for said purpose, as being *bona fide* and as
82 having been created without the lienor having any notice that
83 the said vehicle or container was being used for such illegal
84 transportation or storage of liquors, and the net proceeds shall
85 then be paid to the auditor of the state for the benefit of the
86 general school fund. All liens against property sold under the
87 provisions of this section shall be transferred from the property
88 to the proceeds of the sale of the property, if, however, no one

89 shall be found claiming the seized property, the taking of the
90 same, with a description thereof, shall be advertised in some
91 newspaper published in the county where taken once a week
92 for two weeks and by notices posted in three public places, near
93 the place of seizure, and if no claimant shall appear within ten
94 days after the last publication of the advertisement, the prop-
95 erty shall be sold and the proceeds after deducting expenses,
96 fees and costs, be paid to the auditor as aforesaid. The officer
97 making the seizure, shall be allowed a fee of ten dollars to be
98 taxed as costs against said property.

99 It shall be unlawful for any person to hire, secure or use
100 any automobile or other vehicle mentioned in this section for
101 the purpose of bringing or carrying into the state, or from one
102 place to another within the state, liquors as defined in section
103 one, whether carried upon his person or otherwise while in
104 such vehicle or conveyance, without the consent of the owner,
105 lienor or holder of a reservation of title of such vehicle or con-
106 veyance, and any person so hiring, securing and using such
107 vehicle or conveyance without such consent first obtained
108 shall be guilty of a misdemeanor and upon conviction thereof
109 shall be fined not less than two hundred dollars nor more
110 than one thousand dollars and be confined in the county jail
111 not less than four months nor more than one year. The com-
112 missioner shall have authority to employ an attorney if neces-
113 sary, in enforcing the provisions of this section, the compen-
114 sation to be paid from the amount collected, and in no case to
115 exceed ten per centum of the sale of the confiscated property.

Sec. 32. Justices of the peace shall have concurrent juris-
2 diction with the circuit court and other courts having criminal
3 jurisdiction in their county for the trial of all misdemeanors
4 arising under the prohibition laws of this state. The defendant
5 shall be entitled to a trial by jury, if he shall demand same,
6 upon depositing with the justice the amount as fixed by law,
7 for payment for attendance of the jurors. The state shall have
8 the same right as the defendant to pre-emptorily challenge any
9 two of the jurors selected and returned by the officer under
10 the writ issued by the justice commanding the summoning of
11 the same. Upon conviction of the accused, the justice shall
12 impose the fines and penalties and commit him to jail as pro-
13 vided by section fifty-three of chapter one hundred and twelve,
14 acts of the regular session of one thousand nine hundred and

15 twenty-one, and shall also require all bonds as provided by law,
16 and shall thereupon certify to the clerk of the circuit court, for
17 filing in his office, a transcript of his docket, of the judgment
18 in the case. Such transcript shall be admissible evidence
19 upon the trial of the accused for any second offense alleged in
20 any indictment found and returned against him. The justice
21 shall also certify to the clerk of the circuit court, copies of all
22 bonds given by the defendant, and for certifying the trans-
23 cript and copies of bonds, in each case as herein required, the
24 justice shall be allowed a fee of one dollar for each transcript
25 or copy so certified, to be taxed in costs of the case and col-
26 lected as other costs are collected.

27 Every justice of the peace, mayor, police judge, and clerk
28 of any court having jurisdiction of such cases shall on the first
29 day of each month, mail a written report to the state commis-
30 sioner of prohibition, of all cases arising from violations of
31 the prohibition law, had in his said court for the preceding
32 month, on forms to be prepared and furnished by the commis-
33 sioner. Such report shall state the name of the person ar-
34 rested, date of the complaint, the specific charge against him,
35 disposition of the case and such other information as the com-
36 missioner may require. A fee of fifty cents, "for reporting
37 case", shall be taxed against each defendant and collected as
38 other costs therein. The commissioner shall file and preserve
39 said reports and shall make annual report to the governor, not
40 later than the first day of October, which report shall cover
41 the work of his office for the preceding fiscal year and shall
42 show the number of arrests, under this act, in each county, the
43 number of convictions had in each county, the amount of fines
44 imposed therefor, together with such other matters that may be
45 required by the governor, or deemed pertinent by the com-
46 missioner. It shall be the duty of the sheriff and deputy
47 sheriffs of every county, the constables of every district, the po-
48 lice department of every municipality, all conservators of the
49 peace, and the department of public safety and each and every
50 member thereof, to co-operate with the state prohibition com-
51 missioner in the strict enforcement of the prohibition laws
52 within this state. There shall be taxed as part of the costs
53 against every person convicted of any violation of the prohibi-
54 tion laws, and payable direct to the officer making the arrest,
55 except as hereinafter provided, a fee of ten dollars. *Provided,*
56 *however,* that in case the officer making such arrest be one who

57 receives a regular salary or compensation for his services from
58 the state or from any county or municipality, the fee of ten dol-
59 lars aforesaid shall be paid by the justice or the clerk of the
60 court as the case may be, into the treasury of the state, county
61 or municipality as the case may be. All fines, forfeitures and
62 penalties, that may be imposed and collected under any provi-
63 sions of the prohibition law, shall be paid to the sheriff of the
64 county wherein the same are collected, who shall enter the
65 sums so paid to the credit of an account to be kept by him
66 under the heading "general school fund (prohibition cases)".
67 Twenty-five per cent of this fund may, if necessary, be applied
68 to the payment of claims under the provisions of section two
69 hundred twenty-nine of chapter fifty of the code, and the re-
70 maining seventy-five per cent thereof shall be paid by the
71 sheriff into the treasury of the state as net proceeds according
72 to the provisions of section two hundred and twenty-nine.

73 The provisions of section twenty of this act, shall apply to
74 trials before justices of the peace, *provided, however, that in*
75 *any prosecution before a justice, the prosecuting attorney, or*
76 *the state commissioner of prohibition, or any of his deputies,*
77 *shall have the right, before trial, to elect whether the case shall*
78 *be tried and judgment entered, or whether the justice shall*
79 *hold a preliminary hearing to determine whether the accused*
80 *shall be held for the grand jury. Provided, however, that,*
81 *should the defendant desire to confess, then neither the prose-*
82 *cuting attorney, nor the state commissioner of prohibition, or*
83 *any of his deputies shall have such power to elect, and the*
84 *justice shall enter judgment upon the confession.*

85 In addition to other penalties herein provided for the viola-
86 tion of any of the provisions of the prohibition laws, there shall
87 be added to and included in every sentence and judgment upon
88 conviction under said laws and allowed and taxed as part of
89 the costs, a fee of twenty-five dollars for expense of enforce-
90 ment of this act, which shall be paid by the sheriff into the
91 treasury of the state and credited to the general fund.

Sec. 37. It shall be unlawful for any person to own, operate,
2 maintain or have in his possession, or have any interest in any
3 apparatus for the manufacture of liquors, commonly known as
4 a "moonshine still". For the purpose of this act any mechan-
5 ism, apparatus, or device that is used or is capable of being used
6 for manufacturing, distilling, or making liquors shall be taken
7 and deemed to be a "moonshine still," and the owner and oper-

8 ator shall be deemed a "moonshiner". Any person owning, oper-
 9 ating, maintaining or having in his possession, or having any
 10 interest in a moonshine still, shall be guilty of a felony, and
 11 upon conviction thereof shall be fined not less than three hun-
 12 dred dollars nor more than one thousand dollars and be con-
 13 fined in the penitentiary not less than two nor more than five
 14 years. Any person who aids or abets in the operation or
 15 maintenance of any moonshine still shall be guilty of a felony,
 16 and upon conviction thereof shall be fined not less than two
 17 hundred dollars nor more than five hundred dollars, and be
 18 confined in the penitentiary not less than one nor more than
 19 three years.

20 An indictment of a principal under this section shall be suf-
 21 ficient if in the form or effect following:

22 "State of West Virginia,

23 County of _____, to-wit:

24 In the circuit court of said county:

25 The grand jurors of the state of West Virginia, in and for
 26 the body of the county of _____, and now at-
 27 tending said court, upon their oaths do present that A. B., on
 28 the _____ day of _____, 19_____, and in
 29 the county of _____, did unlawfully and
 30 feloniously own, operate, maintain, possess and have an inter-
 31 est in a certain apparatus, mechanism and device for the manu-
 32 facture of liquors, commonly known as a moonshine still, against
 33 the peace and dignity of the state."

34 Any person who has in his possession any quantity of
 35 moonshine liquor shall be guilty of a misdemeanor and
 36 upon conviction thereof shall be fined not less than one
 37 hundred dollars nor more than three hundred dollars, and
 38 confined in the county jail not less than thirty days nor more
 38-a than ninety days, *provided*, that the finding of any quan-
 39 tity of liquor as defined in section one of this act, in the posses-
 40 sion of any person, other than commercial whiskies which were
 41 obtained and stored in homes for domestic use at a time when it
 42 was lawful so to do, shall be *prima facie* evidence that the
 43 same is moonshine liquor.

44 It shall be unlawful for any person to make, or to have in
 45 his possession, or on his premises, or on the premises of another,
 46 or elsewhere, or to have under his control, or an interest in any
 47 mixture of fermenting substances or materials, such as corn
 48 meal, or other crushed or ground cereals, fruit or roots com-

49 bined with water or other liquids or substances, commonly
50 known as "mash" or any mixture of like kind or character,
51 for the purpose of making intoxicating liquors.

51-a If any person who makes, has, or has in his possession, or
51-b on his premises, or on the premises of another, or who has un-
51-c der his control, or an interest in any mixture of fermenting
51-d substances or materials, such as corn meal, other crushed
51-e cereals, fruits or roots combined with water or other liquids
51-f and substances, commonly known as "mash" or any mixture
51-g of like kind or character, shall be guilty of a mis-
51-h demeanor, and upon conviction thereof, shall be con-
52 fined in the county jail not less than two months
53 nor more than six months, and fined not less than one hundred
54 dollars nor more than five hundred dollars.

55 An indictment for an offense hereunder shall be sufficient if
56 in the form and effect following:

57 "State of West Virginia,

58 County of, to-wit:

59 In the circuit court of said county:

60 The grand jurors in and for the body of the said county of
61, upon their oaths do present that
62 A. B., within one year next prior to the finding of this indict-
63 ment in the said county of, did unlaw-
64 fully make, and have in his possession, and under his control,
65 and did have an interest in a certain mixture of fermenting
66 substances and materials, commonly known as "mash", against
67 the peace and dignity of the state."

68 Upon the conviction of any person for the second offense of
69 making, or having in his possession "mash", or any mixture of
70 like kind or character he shall be guilty of a misdemeanor, and
71 shall be confined in the county jail not less than six months nor
72 more than one year and in addition thereto may be fined not
73 less than one hundred nor more than five hundred dollars, and
73-a the provisions of section three relating to second offense shall
73-b be applicable hereto.

74 Sections three, ten, eleven, twelve, thirteen and thirty-two of
75 chapter thirty-two-a of Barnes' code, one thousand nine hun-
76 dred and sixteen, relating to searches and seizures and proceed-
77 ure, shall apply to and govern the offense under this section, so
78 far as they are applicable; *provided*, that any person held by a
79 justice under this section to answer for a felony, shall give a
80 bond in the penalty of not less than one thousand dollars to

81 appear at the next term of the circuit, criminal or intermediate
82 court having jurisdiction, to answer an indictment, if one be
83 preferred against him, and *provided, further*, that it shall be
84 the duty of the officers to seize and forthwith destroy all moon-
85 shine stills and liquors and paraphernalia found in connection
86 therewith.

Sec. 38. If any person shall unlawfully manufacture, trans-
2 port, or sell liquor, as defined in section one of this act, and at
3 the time of such manufacturing, transporting or selling, or aid-
4 ing or assisting in any manner in such act, shall carry on or
5 about his person, or have on or in any vehicle or conveyance
6 of any kind which he may be using to aid him in any such pur-
7 pose or have in his possession, actual or constructive, at or
8 within one hundred yards of any place where any such intoxi-
9 cating liquor is being unlawfully manufactured, transported
10 or sold, any firearm, dirk, bowie-knife, razor, slung shot, metal
11 knucks or any weapons of like kind or character, with the pur-
12 pose of using same in assistance of any violation of the pro-
13 hibition laws of this state, he shall be guilty of a felony, and on
14 conviction shall be confined in the penitentiary not less than
15 one year nor more than three years. Any such firearms, dirk,
16 bowie-knife, razor, slung shot, metal knucks or any weapons of
17 like kind and character shall be seized and confiscated as pro-
18 vided by law.

Sec. 39. It shall be unlawful for any person to manufac-
2 ture, sell or advertise any still, or distilling apparatus or
3 material for the manufacture of liquors, as defined in this act,
4 or to ship or transport into this state, or from one place to
5 another within the state, any still, or distilling apparatus, or
6 material for the manufacture of the same, and any person
7 found with any material in his possession acquired for use in
8 the manufacture of a still, or distilling apparatus, shall be
9 deemed *prima facie* guilty of manufacturing such apparatus;
10 *provided, however*, that duly licensed druggists and others who
11 may have legitimate use for distilling apparatus as above de-
12 fined, may obtain a permit from the commissioner authorizing
13 such use. All stills in this state not so registered under a per-
14 mit as herein required and all paraphernalia, materials and
15 products employed in the manufacture of liquors or intended
16 to be used in connection with the operation of such stills are
17 hereby declared contraband and shall be subject to seizure
18 and confiscation as provided by law. Any person violating

19 any of the provisions of this section, shall be guilty of a mis-
 20 demeanor, and upon conviction thereof, shall be fined not less
 21 than fifty dollars, nor more than five hundred dollars and im-
 22 prisoned in the county jail not less than thirty days nor more
 23 than six months.

Sec. 40. Any person, not an officer, agent or employee of the
 2 United States, or of the state of West Virginia, charged with
 3 the enforcement of the prohibition laws of this state, who shall
 4 falsely represent himself to be such officer, agent or employee
 5 and in such assumed character, shall arrest or detain any per-
 6 son, or shall in any manner search the person, buildings, or
 7 other property of any person, or do any act in impersonation
 8 of such officer, shall be guilty of a misdemeanor, and upon con-
 9 viction thereof, shall be punished by a fine of not less than one
 10 hundred dollars nor more than one thousand dollars and im-
 11 prisoned for not less than thirty days nor more than one year.
 12 All acts and parts of acts coming within the purview of this
 13 act or inconsistent herewith are hereby repealed.

CHAPTER 30

(Senate Bill No. 348—Mr. Helmick)

AN ACT to create and maintain "The West Virginia school of
 mines" and to provide for the education of the mining indus-
 try in the state.

[Passed April 24, 1923. In effect ninety days from passage. Approved by the
 Governor May 1, 1923]

SEC.	Object.	SEC.	(c) Cost, by whom borne.
1.		3.	Appointment of commission; duties.
2.	(a) Departments contained; (b) Organization of same;		

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a mining school to be
 2 known as "The West Virginia school of mines" whose purpose
 3 and object shall be the education of the youth of the state along
 4 mining lines in order that the natural resources of the state may
 5 be developed and utilized in a safer and more efficient manner.

Sec. 2. (a) The said West Virginia school of mines shall
 2 contain departments of mining engineering, mining extension,
 3 mining geology and chemical engineering, as well as the mining

4 experiment station already authorized by section eighty-four
5 of the mining laws of West Virginia.

6 (b) The West Virginia school of mines shall be organized
7 under the direction of a dean and with a suitable staff of in-
8 struction, and shall have the same rank and standing as the
9 colleges of engineering, law, agriculture, medicine and arts and
10 sciences.

11 (c) The cost of establishing and maintaining the WestVir-
12 ginia school of mines as created by this act shall be paid out of
13 an appropriation hereafter to be made by the legislature for
14 such purpose.

Sec. 3. The governor is hereby authorized to appoint a com-
2 mission of five to determine where the school of mines shall be
3 located that might best serve the mining interests of the state,
4 and with the view of avoiding unnecessary duplication of work.
5 The said commission shall be composed of one member of the
6 senate, one member of the house of delegates, and three promi-
7 nent coal mining men who shall serve without pay.

8 The commission shall report whether in its opinion the school
9 shall be carried on as an independent institution or in connec-
10 tion with one or more of the present existing educational insti-
11 tutions of this state.

CHAPTER 31

(Senate Bill No. 403—Mr. White of Lewis)

AN ACT to amend and re-enact sections seventy-eight-a-(5), seven-
ty-eight-a-(6), seventy-eight-a-(7) and seventy-eight-a-(8) of
chapter fifty-four of Barnes' code of one thousand nine hundred
and sixteen, relating to savings banks, banking associations,
trust companies and building and loan associations and provid-
ing for supervision and examination by the state banking
commissioner.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the
Governor May 1, 1923]

SEC.
78-a (5) What associations subject to
provisions hereof.
78-a (6) Association shall file copy of
charter and receive certi-
ficates before doing busi-
ness penalty for viola-
tion; building and loan as-
sociations to file state-
ments; penalty for false
statements.

SEC.
78-a (7) Commissioner of banking
shall examine books and
affairs of associations.
78-a (8) Unlawful for foreign asso-
ciations to transact busi-
ness in state without cer-
tificate; how to secure cer-
tificate; penalty for failure
to secure certificate; acts
in conflict repealed.

Be it enacted by the Legislature of West Virginia:

That sections seventy-eight-a (5), seventy-eight-a (6), seventy-eight-a-(7) and seventy-eight-a-(8) of chapter fifty-four of Barnes' code of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 78-a-(5). It is further expressly provided that all 2 savings banks, co-operative banking associations and trust com- 3 panies engaged in a general banking business shall be subject 4 to the provisions of this chapter, but nothing herein contained 5 shall be construed to authorize any trust company to do busi- 6 ness in this state with a capital of less than one hundred thou- 7 sand dollars, paid up and unimpaired, as provided by section 8 six of chapter seven of the acts of one thousand nine hun- 9 dred and three; and that all building and loan associations, 10 mutual investment associations, mortgage companies, mortgage 11 and discount companies, and all associations and corporations 12 of a like kind or character doing business in this state, and all 13 associations and corporations, except licensed stock brokerage 14 companies, organized for the purpose or engaging in the business 15 of buying, selling, discounting or dealing in mortgages, bonds, 16 notes, or other securities or commercial paper, shall be subject to 17 a state supervision as follows:

Sec. 78-a-(6). Every such association or corporation organized 2 under the laws of this state, and desiring to operate within the 3 state, shall file with the commissioner of banking a certified copy 4 of its charter, constitution, and by-laws. Said commissioner shall 5 carefully examine the same and if he find that they provide a 6 safe, just and equitable plan for the management of the busi- 7 ness of the association or corporation, he shall issue to such asso- 8 ciation or corporation a certificate of authority permitting it to 9 begin business. But if he find the provisions of said charter, 10 constitution and by-laws to be impracticable, unjust or in- 11 equitable, or oppressive, or lacking in security to any class of 12 shareholders or stockholders, he shall withhold his certificate of 13 authority. It shall not be lawful for any association or corpora- 14 tion hereafter organized under the laws of this state, for any of 15 the purposes above set forth, to transact any business except the 16 execution of its articles of incorporation, the adoption of its con- 17 stitution and by-laws, and the election of directors and officers, 18 until it shall have procured the certificate of authority above

19 provided for, nor shall any amendment of the charter, constitu-
20 tion or by-laws of any such association or corporation become
21 operative until a copy of the same shall have been filed, and a
22 certificate of authority obtained as above provided in regard to
23 original charter, constitution and by-laws. Any bank, associa-
24 tion or corporation violating the provisions of this section shall
25 be deemed guilty of a misdemeanor, and on conviction thereof
26 shall be fined not less than five hundred dollars nor more than
27 one thousand dollars, and in addition thereto the officer or offi-
28-29 cers of any such bank, association or corporation violating the
30 provisions of this section shall be deemed guilty of a misde-
31 meanor and on conviction thereof shall be fined not less than five
32 hundred dollars nor more than one thousand dollars, and, in the
33 discretion of the court, imprisoned in the county jail not more
34 than six months. Every building and loan association, mutual
35 investment association, mortgage company, and mortgage and
36 discount company, and every association or corporation, except
37 licensed stock brokerage companies, of like kind or character, or
38 organized for the purpose or engaging in the business of buying,
39 selling or dealing in mortgages, bonds, notes, or other securities
40 or commercial paper, organized under the laws of this state, and
41 operating within the state, shall at least twice a year, at such
42 times as may be designated by the commissioner of banking, file
43 in the office of said commissioner of banking within ten days
44 after the receipt of his request for same, a statement verified by
45 its president or secretary and approved by three of its directors,
46 in such form as may be prescribed by said commissioner, setting
47 out its actual financial condition and the amount of its assets and
48 liabilities, and furnish such other information as to its affairs as
49 the said commissioner may require, which reports, in the same
50 form in which they are transmitted to the commissioner of bank-
51 ing, shall be printed and circulated among all the stockholders
52 of the association or corporation. Every person who shall wil-
53 fully or knowingly subscribe or make, or cause to be made, any
54 false statement or any false entry in any books of any association
55 or corporation above mentioned, or exhibit false papers with the
56 intent to deceive any person authorized to examine into the
57 affairs of such association or corporation, or shall make, state or
58 publish any false statement of the financial condition of such
59 association or corporation, shall be deemed guilty of a felony
60 and upon conviction thereof shall be fined not exceeding ten

61 thousand dollars, and in the discretion of the court, be im-
62 prisoned in the state penitentiary not less than one nor more
63 than five years.

Sec. 78-a-(7). At least twice in every year the commis-
2 sioner of banking, either in person or by competent assistant,
3 shall make a thorough examination of the books and affairs of
4 every association or corporation mentioned in the next preceding
5 section of this act. He shall carefully examine all bonds, notes
6 and mortgages, and all other securities and assets of every such
7 association or corporation, and shall ascertain the full amount of
8 its liabilities. He shall see that the books are kept properly
9 posted and balanced, and that complete trial balances are struck
10 at regular intervals. Whenever it shall appear to the commis-
11 sioner of banking that any institution which by law is required to
12 obtain from him a certificate, or permit, to begin business, does
13 not keep its books and accounts in such manner as to enable him
14 readily to ascertain its true condition, he may issue an order
15 requiring such institution, or the officers thereof, or any of them,
16 to open and keep such books or accounts as he may, in his dis-
17 cretion, determine and prescribe for the purpose of keeping ac-
18 curate and convenient records of the transactions and accounts
19 of such institution; and the expense thereof shall be paid by said
20 institution. Every such bank, association and corporation men-
21 tioned in section 78-a-(5) of this chapter shall preserve all its
22 records of final entry, including cards used under the card sys-
23 tem and deposit tickets, for a period of at least six years from
24 the date of making the same or from the date of the last entry
25 thereon. Each official communication directed by the commis-
26 sioner of banking or one of his assistants to a bank or to any
27 officer thereof, relating to an examination or investigation con-
28 ducted by the banking department or containing suggestions or
29 recommendations as to the conduct of the business of the bank,
30 shall be submitted, by the officer receiving it, to the board of
31 directors at the next meeting of such board, and duly noted in
32 the minutes of the meetings of such board. If at any time he
33 shall find one of these institutions in an insolvent condition,
34 he shall deal with it according to the manner prescribed in sec-
35 tion eighty-one-a-(7) of this act.

Sec. 78-a-(8). It shall be unlawful for any foreign build-
2 ing and loan association, mutual investment association, trust
3 company, mortgage company, mortgage and discount company,

4 or association or corporation of like kind and character, or
4a association or corporation, except licensed brokerage com-
5 panies, organized for the purpose or engaging in the business
6 of buying, selling, discounting or dealing in mortgages, bonds,
7 notes, or other securities or commercial paper, to transact any
8 business or offer its capital stock for sale in this state, directly
9 or indirectly, without first procuring a certificate of authority
10 from the commissioner of banking. Before obtaining such cer-
11 tificate such foreign association or corporation shall furnish the
12 commissioner of banking an itemized statement of its financial
13 condition and all such other information touching its affairs as
14 the said commissioner may require, which statement and infor-
15 mation shall be verified by the oath of the president or secretary
16 of the association or corporation. Such foreign association or
17 corporation shall also file with the commissioner of banking a
18 certified copy of the laws of the state, territory or government
19 under which it is incorporated, and of its constitution and by-
20 laws and all amendments thereto; and shall appoint an attorney
21 in each county in which it transacts or solicits business, who
22 shall be a resident of such county. It shall file with the com-
23 missioner of banking a written instrument, duly signed and
24 sealed, authorizing such attorney of such association or corpora-
25 tion to acknowledge service of process in behalf of such associa-
26 tion or corporation, consenting that the service of process, mesne
27 or final, upon such attorney shall be taken and held as if served
28 upon the association or corporation according to the laws of this
29 or any other state, and waiving all claim or right of error by
30 reason of such acknowledgment of service. If, after examination
31 of such statement, and certified copy of instruments, and after
32 such association or corporation shall have complied with the
33 provisions of this act with reference to the appointment of an
34 attorney or attorneys, the commissioner of banking shall be satis-
35 fied that said association or corporation is solvent and that the
36 capital and investments are secure, and that the laws, charters,
37 articles of incorporation, constitution and by-laws governing it
38 afford as ample protection to the interests of its members or
39 stockholders as is afforded by the laws of this state to members
40 or stockholders of like associations or corporations chartered by
41 and doing business in this state, he may grant such association or
42 corporation a certificate of authority permitting it to transact
43 business in this state until the thirty-first day of the next suc-

44 ceeding December; but the same statements and the same cer-
45 tificates shall be renewed every year as long as such association
46 or corporation shall continue to do business in this state; and
47 and for every certificate issued the commissioner of banking
48 shall collect a sum of twenty-five dollars and pay the same into
49 the treasury of the state. Any person, agent or corporation
50 doing business or attempting to do business in this state for any
51 foreign building association, mutual investment company or
52 trust company, mortgage company, mortgage and discount com-
53 pany, or association or corporation of like kind and character,
54 or association or corporation, except licensed stock brokerage
55 companies, organized for the purpose of engaging in the busi-
56 nes of buying, selling, discounting or dealing in mortgages,
57 bonds, notes, or other securities or commercial paper, which
58 shall not at that time be a holder of a valid certificate of au-
59 thority, as provided for in this act, shall be deemed guilty of a
60 misdemeanor, and on conviction thereof shall be fined not less
61 than five hundred dollars nor more than one thousand dollars
62 for each and every offense.

63 All acts and parts of acts in conflict herewith are hereby re-
63 pealed.

CHAPTER 32

(House Bill No. 556—Mr. Read)

AN ACT giving a bank the option to refuse payment of a check
presented one year after date.

[Passed April 19, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

SEC.

1. Check; when bank may refuse payment; no liability to rest on maker; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Where a check or other instrument payable on
2 demand at any bank or trust company doing business in this
3 state is presented for payment more than one year from its
4 date, such bank or trust company may, unless expressly in-
5 structed by the drawer or maker to pay the same, refuse pay-

6 ment thereof and no liability shall thereby be incurred to the
7 drawer or maker for dishonoring the instrument by non-
8 payment.

9 All acts and parts of acts inconsistent herewith are hereby
10 repealed.

CHAPTER 33

(House Bill No. 10—Mr. Kuhn)

AN ACT to amend chapter fifty-seven of the code by adding thereto section twelve, relating to the sale of real estate by trustees for labor unions.

[Passed January 24, 1923. In effect from passage. Approved by the Governor April 24, 1923]

Sec.
12. Sale of lands by trustees for labor unions, etc.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-seven of the code be amended by adding thereto section twelve, as follows:

Section 12. The provisions of section nine of this chapter shall apply to an govern the sale of real estate held by trustees for any labor union, or similar association or brotherhood of craftsmen or employees, or any local or branch thereof; but nothing herein contained shall make such labor union or other association, or the trustees therefor, a corporation.

CHAPTER 34

(House Bill No. 14—Mr. McLaughlin)

AN ACT imposing a state tax on gasoline, and on all other liquids containing any derivative of petroleum or natural gas, produced, prepared or compounded or usable for the purpose of generating power by means of internal combustion and sold at wholesale in this state as the words "at wholesale" are defined in this act; and providing for the collection of such tax and for the distribution and use of the revenues derived therefrom; making an appropriation; and fixing penalties.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

SEC.

1. Gasoline; definition of; tax on the sale of at wholesale; wholesale defined.
2. Taxes collected to be used solely for road purposes.
3. Record to be kept of sales; monthly statement to be transmitted

SEC.

- tax commissioner with payment of taxes due; penalty.
5. Tax commissioner may examine books of dealers; information to be confidential; penalty.
6. Penalty for false returns.
7. Provisions severable; legislative intent.

Be it enacted by the Legislature of West Virginia:

Section 1. That the word "gasoline" as used in this act, shall include the liquid, derived from petroleum or natural gas, commonly known or sold as gasoline, and all other liquids, by whatsoever name known or sold, containing any derivative of petroleum or natural gas, and produced, prepared, or compounded for the purpose of generating power by means of internal combustion, or which may be used for such purpose. A state tax of two cents for each gallon, is hereby imposed on all gasoline sold in this state at wholesale as the words "at wholesale" are hereinafter defined. The tax hereby provided for shall be paid by the person, firm, association, or corporation, so selling gasoline, and shall be paid by said person, firm, association, or corporation into the general fund of the state treasury, in the manner and within the time hereinafter specified. The words "at wholesale," as used in this act, shall be held and construed to mean and include any and all sales made for the purpose of re-sale or distribution, or for use, and, as well, to gasoline furnished or supplied for distribution within this state, whether the distributor be the same person who so furnished the same, his agent or employee, or another person; and also to mean and include any person who shall purchase or obtain such gasoline without the state and sell or distribute or use the same within the state. *Provided*, that nothing herein contained shall be construed as authorizing or requiring the collection of such tax upon any gasoline after the same shall have been already once taxed under the provisions of this act.

Sec. 2. All taxes collected under the provisions of this act shall be paid into the state treasury and shall be used only for the purpose of the re-construction, maintenance, and repair of roads and highways, and for the payment of the interest on state bonds issued for road purposes.

Sec. 3. Every person, or the treasurer or other proper officer
2 or agent of every association, co-partnership, or corporation,
3 selling gasoline at wholesale, shall keep and preserve an accu-
3a rate record of all such sales, and shall, on or before the last day
4 of each month, transmit to the tax commissioner a statement,
5 under oath or affirmation, on such forms as the tax commissioner
6 shall prescribe, of the total number of gallons of gasoline sold
7 during the preceding calendar month and made taxable by this
8 act, and shall, at the same time pay to the tax commissioner the
9 amount of tax due for such preceding calendar month.

10 If any such person, association, co-partnership, or corpora-
11 tion neglects or refuses to make said return, or to pay the tax
12 at the time hereinbefore provided, the amount thereof, with
13 an addition of ten per centum thereof, shall be collected on an
14 account settled by the tax commissioner, as other taxes are set-
15 tled and collected, by any appropriate legal proceeding.

Sec. 5. The tax commissioner, or any agent appointed in
2 writing by him, is hereby authorized to examine the books and
3 papers of any person, association, co-partnership, or corpora-
4 tion, pertaining to the business made taxable by this act, to
5 verify the accuracy of any return made under the provisions
6 of this act, and, in the collection of said tax, the tax commis-
7 sioner shall have all the powers now vested in him by the laws
8 of the state for the collection of taxes; but any information
9 gained by the tax commissioner, or any other person as a re-
10 sult of the reports, investigations, or verifications herein re-
11 quired to be made, shall be confidential, and any person divulg-
12 ing such information shall be guilty of a misdemeanor, and,
13 upon conviction, shall be sentenced to pay a fine of not more
14 than one thousand dollars, or to undergo an imprisonment of
15 not more than one year, or both.

Sec. 6. Any person, association, co-partnership, or corpora-
2 tion, or the officers, directors, trustees, or members of any as-
3 sociation, co-partnership, or corporation, who shall fail, neglect,
4 or refuse to make the returns and to pay the tax herein pre-
5 scribed, or who shall refuse to permit the tax commissioner, or
6 any agent appointed by him in writing, to examine the books or
7 papers of such person, association, or co-partnership, or corpora-
8 tion, pertaining to the business made taxable by this act, or who
9 makes any incomplete, false, or fraudulent return hereunder, or
10 who does, or attempts to do, anything whatsoever to avoid a full

11 disclosure of the amount of business done, or to avoid the pay-
12 ment of the whole or any part of the tax due, shall be guilty
13 of a misdemeanor, and, upon conviction, shall be fined not ex-
14 ceeding one thousand dollars, or in the case of an individual, he
15 may be imprisoned not exceeding six months, or both. Such
16 penalty shall be in addition to the penalty imposed by section
17 three of this act.

Sec. 7. The provisions of this act are severable, and, if any
2 of its provisions shall be held unconstitutional, the decision of
3 the court shall not affect or impair any of the remaining pro-
4 visions of the act. It is hereby declared as a legislative intent
5 that this act would have been adopted had such unconstitutional
6 provisions not been included therein.

CHAPTER 35

(House Bill No. 358—Mr. Morris)

AN ACT to relieve soldiers and sailors of the civil war from the
payment of capitation taxes.

[Passed April 13, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

Sec.

1. Soldiers and sailors of civil war
exempt from payment of capi-
tation tax.

Be it enacted by the legislature of West Virginia:

Section 1. That on and after the first day of January, one
2 thousand nine hundred and twenty-four, all soldiers and sailors
3 who are residents of West Virginia, and who served in either
4 army during the civil war, union or confederate, shall be ex-
5 empt from paying capitation taxes of any kind in the state of
6 West Virginia.

CHAPTER 36

(House Bill No. 219—Mr. Oldham)

AN ACT to amend and re-enact section one hundred and nine of
chapter thirty-two of the code of West Virginia, imposing a
license tax on roller skating rinks, parks, fortune tellers and
labor agencies.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the Governor May 2, 1923]

SEC.
109. License fee on roller skating
rinks, parks, fortune tellers and
labor agencies; penalty.

Be it enacted by the Legislature of West Virginia:

That section one hundred and nine of chapter thirty-two of the code of West Virginia be and the same is hereby amended and re-enacted so as to read as follows:

Section 109. On every license to keep a roller skating rink for 2 public use or resort in a city or town with a population of ten 3 thousand or more, one hundred dollars; in a city or town with a 4 population of more than five thousand, but less than ten thous- 5 and, fifty dollars; and in a city or town with a population not 6 exceeding five thousand, twenty-five dollars.

7 On every license to keep or maintain a public park to which 8 admission is obtained for money or reward, in counties of over 9 thirty thousand inhabitants, twenty-five dollars; in counties of 10 less than thirty thousand and more than twenty thousand inhabi- 11 tants fifteen dollars; in counties of less than twenty thousand in- 12 habitants, ten dollars; but such license for such public park 13 shall not be construed to be in lieu of, or to include any other 14 license now required by law on any subject of taxation located at 15 or in said park or elsewhere, and every park to which admission 16 is obtained for money or other reward shall be construed and 17 held to be subject to the provisions of this chapter. The furnish- 18 ing of foods and drinks, if a state license has been obtained there- 19 for, to visitors is allowed as well as any other licensed subject 20 the sale or use of which is now authorized by law.

21 On every license to act as a fortune teller, palmist, mind- 21-a reader, or any one who practices the profession of telling 21-b the past or future, five hundred dollars; on every 22 license to conduct a business of a labor agency, two hun- 23 dred and fifty dollars; any person or corporation who hires or 24 contracts with laborers, male or female, to be employed outside 25 the state of West Virginia, either by said person or corporation 26 or some other person or persons, corporation or corporations, and 27 to be transported out of the state for employment in another 28 state, shall be deemed a labor agency within the meaning of this 29 clause. Any municipality within the state, including the city of 30 Wheeling, shall be and is hereby empowered to impose a similar 31 tax on any such labor agency, to limit the number of labor

32 agencies to operate in said municipalities (but in no event shall
33 the number of said labor agencies be restricted to fewer than
34 three in any city, town or village), and, at its option, to include
35 within its definition of a labor agency any person or corpora-
36 tion who hires or contracts with laborers, male or female, to be
37 employed by persons outside of said municipality, whether such
38 person be the same person or corporation hiring or contracting
39 or other person or persons, corporation or corporations.

40 Any person or corporation carrying on the business of a labor
41 agency as defined in this act without first fully complying with
42 all the provisions thereof, shall be deemed guilty of a misde-
43 meanor and shall, upon conviction thereof, be fined not less than
44 one hundred dollars nor more than five hundred dollars, or im-
45 prisoned not less than thirty days or more than six months, or
46 both, at the discretion of the court. For the purpose of the penal
47 section of this act, any individual acting on behalf of a corpora-
48 tion carrying on the business of a labor agency, as herein defined,
49 when said corporation has not complied with the terms of this
50 act, shall likewise be deemed guilty of a misdemeanor and sub-
51 ject to the same penalties as hereinabove set forth.

CHAPTER 37

(House Bill No. 22—Mr. Hall of Wetzel)

AN ACT to amend and re-enact section twenty-five of chapter thirty
of the code of West Virginia, one thousand nine hundred and
sixteen, relating to correction of delinquent records.

[Passed April 11, 1923. In effect ninety days from passage. Approved by the
Governor May 1, 1923]

SEC.
25. Duty of auditor as to delinquent
lists.

Be it enacted by the Legislature of West Virginia:

That section twenty-five of chapter thirty of the code of West
Virginia, one thousand nine hundred and sixteen, be amended and
re-enacted so as to read as follows:

Section 25. The copies directed by the preceding section to
2 be certified to the auditor shall be sealed up by the clerk in an
3 envelope, addressed to the auditor and delivered to the sheriff
4 or collector by whom they were presented. It shall be the duty

5 of the auditor to examine into such lists, and if he have reason
6 to believe that they or any of them are not correct, he shall
7 return them to the court for correction, pointing out where-
8 in they are not correct, and giving his reason why they should
9 be corrected as to any person or subject therein. If, how-
10 ever, after said lists have been recorded in his office by the
11 auditor it appears therefrom that there are clerical errors
12 still remaining therein affecting a proper return of any of
13 the real estate entered in said lists, it shall be the duty of the
14 clerk of the county court of the county in which such real es-
15 tate is located, to certify to the auditor a copy of such de-
16 linquency as it appears from the original delinquent list on
17 file in his office and the auditor shall correct his records in
18 accordance therewith. Should such errors also appear on the
19 original delinquent list filed by the sheriff in the office of the
20 clerk of the county court it shall be the duty of the sheriff to
21 enter proper corrections thereon before the copy hereinbe-
22 fore provided for is certified to the auditor. The auditor shall
23 credit the sheriff or collector with the amount of all state and
24 state school taxes mentioned in said lists, if the same be pre-
25 sented at his office before the first day of September in the
26 year next succeeding that for which said taxes were assessed.
27 All taxes paid to the auditor under the preceding section shall
28 be paid by him into the treasury of the state, and he shall draw
29 his warrant on the treasurer, payable to the order of the sher-
30 iff of the proper county, for the county and district taxes so
31 received by him. He shall at the same time certify to the clerk
32 of the county court of the same county, the amount of any
33 such warrant and the portions thereof which are due to the
34 county and the district in which the land is situated, respec-
35 tively. The said clerk shall, in turn, notify the proper board
36 of education of the amount due the district.

CHAPTER 38

(House Bill No. 23—Mr. Hall of Wetzel)

AN ACT to amend and re-enact section three of chapter thirty-one of the code of West Virginia, one thousand nine hundred and sixteen, relating to redemption of delinquent lands.

[Passed April 11, 1923. In effect ninety days from passage. Approved by the Governor April 24, 1923]

SEC.
3. Record to be kept; by whom; of what.

Be it enacted by the Legislature of West Virginia:

That section three of chapter thirty-one of the code of West Virginia, one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 3. Of the real estate mentioned in the preceding 2 section, except as therein otherwise provided, and of all real 3 estate hereafter returned delinquent for nonpayment of taxes, 4 a record shall be kept by the auditor in his office. And at any 5 time prior to the first day of October before the lists provided 6 for in section four of this chapter have been certified and de- 7 livered by the auditor to the sheriff or collector of taxes of the 8 county in which such real estate is situated, any person having 9 the right to redeem the same may do so by paying into the 10 treasury the amount of taxes on any such real estate as here- 11 inafter provided. But after such lists are delivered to the 12 sheriff or collector of taxes of a county, no further redemp- 13 tion shall be made except by payment to the sheriff or collector 14 of taxes of the county, of the amount of taxes and interest due 15 thereon, with such additional costs as may have been incurred 16 by him in proceeding to sell the real estate sought to be re- 17 deemed.

CHAPTER 39

(House Bill No. 25—Mr. Jones)

AN ACT to amend and re-enact chapter one hundred thirty-six of the acts of one thousand nine hundred and twenty-one, relating to qualifications of those desiring to practice medicine in the state of West Virginia.

[Passed April 12, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

SEC.
9. Requirements necessary to practice medicine in state; public health council may accept certificates; public health council to hold examinations; duties and

powers of public health council as to examinations; physicians living in other states, called in consultation; midwifery; medical officers of the United States army or navy.

Be it enacted by the Legislature of West Virginia:

That section nine, chapter one hundred fifty Barnes' code of the year one thousand nine hundred and sixteen be amended and re-enacted to read as follows:

Section 9. The following persons and no others shall here-
2 after be permitted to practice medicine in this state. (1) All
3 such persons as shall be legally entitled to practice medicine in
4 this state at the time of the passage of this act. (2) All
5 such persons as shall be graduates of class "A" medical schools
6 as classified by the council on education of the American Medi-
7 cal Association and American Association of Medical Col-
8 leges (and the American Institute of Homeopathy and the Na-
9 tional Eclectic Medical Association) and American Osteopathic
10 Association and then only from such schools when so classi-
11 fied as do require a condition to entrance upon the
12 a study of medicine at least two years of academic work
13 of collegiate grade in a standard college of arts and sciences
14 of equal rank with the college of arts and sciences in the Uni-
15 versity of West Virginia, who shall pass an examination before
16 said public health council and shall receive a certificate there-
17 from as hereinafter provided; *provided, however*, that the public
18 health council, or a majority of them, may accept, in lieu of an
19 examination, the certificate of license to practice medicine legal-
20 ly granted by the state board of registration or examination or
21 licensing board of another state, territory or any foreign coun-
22 try whose standard of qualification for the practice of medicine
23 is equivalent to that of this state, and grant to the said ap-
24 plicant a certificate of license to practice medicine in this state;
25 provided such states, territories or foreign countries accord like
26 privileges to licentiates of this state. The public health council
27 shall at such times as a majority of them deem proper, hold
28 examinations for the licensing of practitioners of medicine; such
29 examinations shall not be less than two during the year, and
30 shall be held at such points in the state as shall be most con-
31 venient for those presenting themselves for examination, or to
32 the public health council; at such examination, written and oral
33 questions shall be submitted for the applicants for license, cov-
34 ering all the essential branches of the sciences of medicine and
35 surgery, and the examination shall be a thorough and decisive
36 test of the knowledge and ability of the applicants. The presi-
dent and secretary of the public health council shall issue certi-

37 ficates to all who successfully pass the said examination and to
38 all those certificates said public health council or a majority
39 of them shall accept in lieu of an examination as hereinbefore
40 provided, except that in all the certificates issued to applicants
41 who adhere to the osteopathic school it shall appear that it is
42 for the practice of osteopathy, and such certificates after being
43 duly recorded as hereinafter provided, shall be deemed licenses
44 to practice medicine, surgery and osteopathy in all their
45 branches in this state. The public health council shall give timely
46 notice of the time and place of holding such examinations in
47 at least three newspapers of general circulation in this state,
48 and all such persons wishing to present themselves for ex-
49 amination shall notify the secretary and comply with the rules
50 of the public health council. No applicant for license to prac-
51 tice medicine in this state shall be rejected because of his or
52 her adherence to any particular school or theory of medicine.
53 The public health council shall call to their assistance in the
54 examination of any applicant who professes the homeopathic,
55 osteopathic or eclectic school of medicine, a homeopathic, osteo-
56 pathic or eclectic physician entitled to practice medicine in this
57 state under this act, and such homeopathic, osteopathic, or
58 eclectic physician so called to the assistance of the public health
59 council, shall be allowed per diem and actual expenses incurred
60 hereinbefore allowed the regular members of the public health
61 council; *provided, however*, that the provisions of this and the
62 preceding section shall not apply to physicians living in other
63 states and duly qualified to practice medicine therein, who shall
64 be called in consultation into this state, by a physician legally
65 entitled to practice medicine in this state under this chapter,
66 and, *provided, further*, that the provisions of this chapter shall
67 not apply to females practicing midwifery, or to commissioned
68 officers of the United States army and navy and marine hospital
69 service when in the actual discharge of their duties as such
70 commissioned officers.

CHAPTER 40

(House Bill No. 116—Mr. Read)

AN ACT to define osteopathy and to authorize and regulate the practice of osteopathic physicians and surgeons and to provide penalties for the violation of this act and to repeal all acts and parts of acts in conflict herewith.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the Approval of the Governor]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. "Osteopathy" defined. 2. Unlawful to practice without license; issued by State board of osteopathy; license heretofore issued not affected by act. 3. Practice of medicine and surgery, authorized by law, not affected by acts. 4. State board of osteopathy consisting of three members; appointed by Governor; term of office, one, two and three years; thereafter one appointed, each year, for three year term; board to have seal; shall adopt rules, regulations and by-laws; shall hold not fewer than two examinations each year; compensation not to exceed fees collected; balance, if any, turned over to State by end of fiscal year. 5. Qualifications, must be legally qualified, must have had five years practice; take constitutional oath. 6. Requirements of applicants for examination: (1) Must apply on blank furnished by board; (2) submit evidence, under oath, that applicant is twenty-one years of age; must have professional education required by act; (3) fees payable in advance: (a) examination osteopathic physician and surgeon twenty-five dollars; (b) for license under section ten, same. 7. Applicant must be graduate of professional school of osteopathy; course to cover four years of nine months each; curriculum defined in section eight. | <p>SEC.</p> <ol style="list-style-type: none"> 8. School or College of Osteopathy defined; requirements for doctor's degree four years course of thirty-six weeks each; course of study outlined. 9. License issued by President and Secretary; may accept credits in lieu of examination. 10. Board may issue license without examination, as follows: (1) to persons who have met requirements or hold license in another state; or (2) to practitioners in U. S. Army, Navy or public health service. 11. License must be recorded by County Clerk; shall display license in place of business. 12. Shall report births and deaths and matters pertaining to public health; have same rights as physicians and surgeons. 13. Licenses refused, suspended or revoked for: (a) conviction of felony, (b) attempting to or obtaining license fraudulently, (c) gross malpractice, (d) deceptive advertising, (e) practicing under fictitious name, (f) drunkenness or addiction to use of habit-forming drugs; procedure in cases where licenses are sought to be revoked. 14. Offenses defined; penalty, fine twenty-five to five hundred dollars. 15. Board shall keep record open to public; contents of record. 16. Unconstitutionality of one section not to affect other sections of act; inconsistent acts repealed. |
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Be it enacted by the Legislature of West Virginia:

Section 1. The word "osteopathy" as used in this act is the name of that system of the healing art which places the chief emphasis on the structural integrity of the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease.

Sec. 2. It shall be unlawful for any person to practice medicine as an osteopathic physician or osteopathic physician and surgeon in this state, without a license issued by the state board of osteopathy hereinafter created; *provided*, that any certificate or license heretofore issued under the laws of this state, authorizing its holder to practice osteopathy and surgery shall in no wise be affected by the provisions of this act.

Sec. 3. The practice of medicine and surgery by persons authorized under the laws of this state to practice medicine and surgery shall in no way be affected by the provisions of this act.

Sec. 4. Within thirty days after this act shall take effect, the governor of the state shall appoint three examiners who shall be regularly licensed osteopathic physicians in good standing, recommended by the state osteopathic organization, and who have been engaged in the practice of their profession for a period of at least five years immediately prior to such appointment. Of the members first appointed, one shall hold office for one year, one for two years, and one for three years. The term of office of members thereafter appointed except to fill vacancies, shall be three years. Vacancies shall be filled by appointment for the unexpired term. Each examiner shall continue in office until his successor has been appointed and has qualified. Said examiners shall be known as, and constitute, the state board of osteopathy. Said board shall have and use a common seal and may make and adopt all necessary rules, regulations and by-laws relating to the enforcement of the provisions of this act not inconsistent herewith. Examinations shall be held at least twice a year at the time and place fixed by said board, of which examination all applicants shall be notified in writing.

The compensation of examiners shall be fixed by the by-laws of said board but the total paid out for compensation and for all expenditures authorized by this act shall not exceed the fees received from applicants for license, and all sums of money derived from said fees remaining in the hands of said board after the payment of such compensation and other expenditures authorized by this act shall be turned over to the state treasurer on or before the last day of each fiscal year.

Sec. 5. Each member of said board shall, before entering upon the duties of his office, take the oath of office prescribed by the constitution before some one qualified to administer oaths, and shall, in addition thereto, make oath that he is a legally qualified practitioner of osteopathy in this state; and that he has been engaged in the active practice of his profession in this state for at least five years preceding his appointment.

Sec. 6. Each applicant for the examination, provided for in this act, shall comply with the following requirements:

(1) Make application for examination on blank forms prepared and furnished by the state board of osteopathy.

5 (2) Submit evidence verified on oath and satisfactory to
6 the board that applicant is twenty-one years of age or over and
7 has the preliminary and professional education required by
8 this act.

9 (3) Pay in advance to the board, fees as follows:

10 (a) For examination of an osteopathic physician and sur-
11 geon, twenty-five dollars.

12 (b) For the license to one applying therefor under the
13 provisions of section ten hereof, twenty-five dollars.

Sec. 7. Standards of professional education are fixed as
2 follows:

3 To practice as an osteopathic physician and surgeon, the
4 applicant shall be a graduate of a professional school or college
5 of osteopathy which requires as a prerequisite to graduation,
6 a four years course of nine months each, covering the standard
7 curriculum, as defined in section eight of this bill, and giving
8 instructions in all the subjects necessary to educate a thor-
9 oughly competent general osteopath practitioner.

Sec. 8. The term school or college of osteopathy in good
2 standing shall be defined as follows: A legally chartered
3 osteopathic school or college requiring for admission to its
4 course of study a preliminary education equal to the require-
5 ments for graduation of an accredited high school, and shall
6 further require before granting the degree of doctor of osteo-
7 pathy, an actual attendance at such osteopathic school or
8 college of at least thirty-six months or four terms of nine
9 months each, no two of which shall be given in any one year,
10 its course of study to include the subjects and the minimum
11 hours taught in each thereof as follows:

12 SUBJECT	HOURS
13 Anatomy (descriptive, regional, applied, surgical and dis- 14 section)	600
15 Embryology	70
16 Chemistry (advanced to include organic and physiolog- 17 ical chemistry and toxicology)	300
18 Histology	180
19 Physiology	300
20 Pathology	240
21 Bacteriology	150
22 Hygiene	60
23 Hydrotherapy	16
24 X-Radiance and electrical diagnosis	36

25	Dietetics ..	32
26	Osteopathy:	
27	(a) Principles of osteopathy.	
28	(b) Osteopathic technique.	
29	(c) Practice of osteopathy, to include diseases of	
30	nervous system, alimentary tract, heart and vascular	
31	system, genito-urinary diseases, ductless glands and	
32	metabolism, respiratory tract, bone and joint diseases,	
33	corrective gymnastics, acute and infectious diseases,	
34	pediatrics, dermatology, syphilis, psychiatry, diagnosis	
35	(physical, laboratory and differential), clinical practice	
36	case recording	1446
37	Surgery with emphasis on fractures and dislocations,	
38	principles of surgery, and surgical diagnosis, ortho-	
39	pedics, orificial and chemical	400
40	Eye, ear, nose and throat	180
41	Gynecology ..	160
42	Obstetrics ..	200
43	Professional ethics and efficiency	16
44	Jurisprudence	16
45		
46	Total	4422

47 The number of hours herein prescribed for the study of any
 48 subject may be reduced not more than thirty per cent, but the
 49 total number of hours prescribed shall not be reduced. The
 50 foregoing requirements shall be published in each catalogue of
 51 such osteopathic school or college.

Sec. 9. The president and secretary of the state board of
 2 osteopathy shall issue certificates of license to all who success-
 3 fully pass the said examination and to all those whose certifi-
 4 cates said board, or a majority of them, shall except in lieu of
 5 an examination as hereinafter provided.

Sec. 10. The state board may at its discretion issue a license
 2 without examination to a practitioner who has been licensed
 3 in any county, state, territory, or province, upon the follow-
 4 ing conditions:

5 (1) That the requirements of registration in the country,
 6 state, territory or province, in which the applicant is licensed,
 6 are deemed by the state board to have been practically equiva-
 8 lent to the requirements of registration in force in this state
 9 at the date of such license.

10 (2) The state board may also at its discretion issue a
11 license without examination to an osteopathic physician who
12 is a graduate of an osteopathic college in good standing and
13 who has passed examination for admission into the medical
14 corps of the United States army, United States navy, or the
15 United States public health service.

Sec. 11. Every person holding a license authorizing him to
2 practice osteopathy and surgery in this state must have the
3 same recorded in the office of the county clerk of the county of
4 his residence. Every such person upon a change of residence
5 must have his certificate recorded in like manner in the county
6 to which he may have changed his residence, and such license
7 shall be displayed in his office, place of business or employ-
8 ment.

Sec. 12. Osteopathic physicians shall observe and be subject
2 to all state and municipal regulations relative to reporting all
3 births and deaths and all matters pertaining to the public
4 health, with equal right and obligations as physicians of other
5 schools of medicine, and such reports shall be accepted by the
6 officers of the department to which the same are made.

7 Osteopathic physicians and surgeons licensed hereunder
8 shall have the same rights as physicians and surgeons of other
9 schools of medicine.

10 Osteopathic physicians licensed hereunder shall have the
11 same rights as physicians of other schools of medicine with
12 respect to the treatment of cases or the holding of offices in
13 public institutions.

Sec. 13. The state board may either refuse to issue or may
2 suspend or revoke any license for any one or any combination
3 of the following causes:

4 (a) Conviction of a felony, as shown by a certified copy of
5 the record of the court.

6 (b) The obtaining of or an attempt to obtain a license, or
7 practice in the profession for money, or any other thing of
8 value, by fraudulent misrepresentations.

9 (c) Gross malpractice.

10 (d) Advertising by means of knowingly false or deceptive
11 statements.

12 (e) Advertising, practicing or attempting to practice
13 under a name other than one's own.

14 (f) Habitual drunkenness, or habitual addiction to the use
15 of morphine, cocaine, or other habit-forming drugs.

16 The state board may neither refuse to issue, nor refuse to
17 renew, nor suspend, nor revoke any license, however, for any
18 of these causes, unless the person accused has been given at
19 least twenty days' notice in writing of the charge against him
20 and a public hearing by the state board.

21 The state board of osteopathy shall have the power to compel
22 the attendance of witnesses and the production of relevant
23 books and papers for the investigation of matters that may
24 come before them and the presiding officer of said board may
25 administer the requisite oaths and such board shall have the
26 same authority to compel the giving of testimony as is con-
27 ferred on courts of justice.

Sec. 14. Each of the following acts shall constitute a mis-
2 demeanor, punishable, upon conviction, by a fine of not less
3 than fifty dollars nor more than five hundred dollars.

4 (a) The practice of osteopathy or an attempt to practice
5 osteopathy without license.

6 (b) The obtaining of, or an attempt to obtain a license, or
7 practice in the profession for money, or any other thing of
8 value, by fraudulent misrepresentation.

9 (c) The making of any wilfully false oath or affirmation
10 whenever an oath or affirmation is required by this act.

11 (d) Advertising, practising or attempting to practice
12 under a name other than one's own.

Sec. 15. The state board shall keep a record, which shall
2 be open to public inspection at all reasonable times, of its
3 proceedings relating to the issuance, refusal, renewal, sus-
4 pension and revocation of licenses to practice osteopathy and
5 surgery. This record shall also contain the name, known
6 place of business and residence, and the date and number of
7 the license of every registered osteopath.

Sec. 16. Should the courts declare any section or any part
2 of a section of this act unconstitutional or unauthorized by law,
3 or in conflict with any other section or part or subdivision of
4 a section or provision of this act, then such decision shall affect
5 only the section or part or subdivision of a section, or provision
6 so declared to be unconstitutional, and shall not affect any
7 other section or any other part or subdivision of a section or
8 provision or part of this act. It is further expressly provided
9 that each section and each part or subdivision of a section here-

10 in, so far as an inducement for the passage of this bill is con-
11 cerned, is independent of every other section and every other
12 part or subdivision of a section, and not any section or any part
13 or subdivision of a section is an inducement for the enactment
14 of any other section or part or subdivision of a section.

15 All acts and parts of acts conflicting herewith are hereby
16 repealed.

CHAPTER 41

(House Bill No. 195—Mr. Estep)

AN ACT authorizing registered nurses to administer anesthetics
for and in the presence of licensed physicians in certain cases.

[Passed April 11, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

SEC.

1. Duly registered nurses authorized
to administer anesthetics; in-
consistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That in any case where it is now lawful for a
2 duly licensed physician and surgeon practicing medicine and
3 surgery under the laws of this state to administer anesthetics,
4 such anesthetics may be lawfully given and administered by any
5 nurse, who shall have been duly registered as such under the
6 laws of this state, *provided*, that such anesthetic is administered
7 by such nurse in the presence and under the supervision of
8 such licensed physician or surgeon.

Sec. 2. All acts or parts of acts coming within the purview
2 hereof and inconsistent herewith are hereby repealed.

CHAPTER 42

(House Bill No. 325—Mr. Eubank)

AN ACT to amend and re-enact section three of chapter one hun-
dred and sixty-one of the code of West Virginia, relating to
jail physicians.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

Sec.
3. Jail physician.

Be it enacted by the Legislature of West Virginia:

That section three of chapter one hundred and sixty-one of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 3. The county court for every county may appoint a
2 physician to attend all persons confined in jail as lunatics, or
3 persons charged with felony or misdemeanor, and such physician
4 shall furnish all medicines and drugs for, and give proper at-
5 tention to, all such persons at a stipulated, fixed and exclusive
6 annual allowance. The appointment of such physician shall be
7 made in open court. The court, or president thereof in vacation,
8 shall cause notice to be given in some newspaper published in
9 the county, and by posting at the front door of the court house,
10 or, if no such paper be published, by posting as aforesaid alone,
11 of the days during court, when sealed bids will be received. The
12 bids shall be opened only in court, on the day specified in the
13 notice, if the court then be in session, and, if not, on the first day
14 of the session thereafter, and the appointment awarded to the
15 lowest responsible bidder; and such court shall have the right to
16 reject any or all bids. The person receiving the appointment
17 shall give bond with sufficient surety, to be approved by the
18 court, for the faithful performance of the trust and agreement.
19 The court shall have power to vacate the appointment for failure
20 or neglect of duty; but such vacation shall in no manner af-
21 fect the liability on the bond. All of the proceedings shall be
22 entered in the order book of the court. The county court may
23 also, after examination, when a person in its jail charged with
24 or convicted of an offense is unable to provide himself with
25 sufficient clothing, direct the jailer to provide him clothing, and
26 allow therefor not exceeding twenty dollars in one year. Al-
27 lowances under this section, on being certified by the court,
28 shall be paid out of the county treasury.

CHAPTER 43

(House Bill No. 27—Mr. Huber)

AN ACT to provide for the establishment of the two-platoon system of city fire department.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.	1. Two platoon system city fire department; how and when established; hours.	SEC.	2. Assignment of members to service; periods of service.
			3. To whom act applies.

Be it enacted by the Legislature of West Virginia:

Section 1. In any municipal corporation in this state having a population of more than eighteen thousand inhabitants, or which may hereafter have, a fire department supported in whole or in part at public expense, the city council or other legislative body of such municipality, may declare the necessity of said service to each twenty-four hours shall be as follows, to-wit: from eight a. m. to six p. m. and from six p. m. to eight a. m.

Sec. 2. Upon such declaration being made by the city council or other legislative body, the members of the fire department shall be divided into two platoons, and the members of said departments shall be assigned to service in said platoons by the superintendent of the department of public safety or chief. The periods of service to each twenty-four hours shall be as follows, to-wit: from eight a. m. to six p. m. and from six p. m. to eight a. m. The superintendent of the department of public safety or chief, shall assign one platoon of officers and members to the period from eight a. m. to six p. m. and the other platoon of officers and members from six p. m. to eight a. m., and the officers and members assigned to each platoon shall alternate on the two hours of duty at intervals of not more than two weeks.

No officer or member shall be required to remain on duty for more than fourteen consecutive hours except when changing from one tour of duty to the other, or in case of a conflagration requiring the services of more than one-half of the department. The superintendent of the department of public safety or chief is hereby authorized and directed to make the necessary assignments to the two respective platoons.

Sec. 3. Nothing in this act shall apply to any city or town which does not maintain and pay for a fire department and employes thereof for full time.

This bill shall not affect cities or towns having a population of ten thousand or less.

CHAPTER 44

(House Bill No. 276—Mr. Marschner)

AN ACT to amend and re-enact sections one, two, three, four, five, six, nine, ten, eleven and twelve of chapter forty-five of the acts of the Legislature of one thousand nine hundred and seventeen, relating to firemen's pension or relief fund and providing for a policemen's pension or relief fund and for the levy of taxes in municipalities therefor.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Relief fund for firemen and policemen authorized; administration by board of trustees.
2. Board of trustees a corporation.
3. Election to be held second Monday in month following passage of ordinance; how conducted; term of office one year; board to consist of four members; secretary shall keep record; compensation fixed by board.
4. Establishment of policemen's relief fund same as in section three.
5. Relief fund how maintained; tax not to exceed seven and one-half mills per one hundred dollars taxable property; fines turned into fund in addition to one dollar each month from each fireman or policeman.
6. Treasurer, custodian of fund; to be paid on order of trustees.
7. Funds to be invested in interest-bearing bonds or in real estate to fifty per cent of assessed value, board shall report to leg-

Sec.

- islative body December thirty-first each year.
8. No payments to be made until five years from creation of corporation except from income from fund; if amount is not sufficient to be pro rated among those entitled to same.
9. Twenty-three years' service necessary to entitle applicant to retirement; must be fifty years of age; shall receive the sum equal to half of salary monthly; applicant permanently disabled shall receive one dollar and twenty-five cents per day; service ten to twenty years, ten-sixteenths of salary; over twenty years service, eleven-sixteenths.
10. Compensation in case of death after five years service, to widow twenty dollars, to child five dollars monthly, amount not to exceed thirty dollars.
11. Compensation of other dependents; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, five, six, nine, ten, eleven and twelve of chapter forty-five of the legislature of one thousand nine hundred and seventeen be amended and re-enacted so as to read as follows:

Section 1. In any municipal corporation in this state having, or which may hereafter have, fire department and a police department, or either of said departments, supported in whole or in part at public expense, the council or other legislative body thereof may, by ordinance, declare the necessity for the establishment and maintenance of a firemen's pension or relief fund, and for a policemen's pension or relief fund, or either of such funds, for the purpose hereinafter enumerated; and thereupon shall be created a board of trustees, or boards of trustees, as the case may be, who shall administer and dis-

11 tribute the funds authorized to be raised by this act and suc-
12 ceeding sections.

Sec. 2. The said board of trustees, or boards of trustees,
2 shall be corporations by the name and style of "The Board
3 of Trustees of the Firemen's Pension or Relief Fund of.....
4,," or The Board of Trustees of the
5 Policemen's Pension or Relief Fund of,,"
6 as the case may be (the name of town, village or city), by
7 which names they may sue and be sued, plead and be im-
8 pleaded, contract and be contracted with, take and hold real
9 estate and personal estate, for the use of said firemen's pension
10 or relief fund or said policemen's pension or relief fund and
11 have and use a common seal. But in the absence of such seal,
12 the private seal of the president of said corporation shall be
13 equivalent to such common seal. Said boards of trustees may
14 also in their corporate names do and perform any and all other
15 acts and business pertaining to the trust created hereby or by
16 any conveyance, devise or dedication made for the uses and
17 purposes of said board.

Sec. 3. The said board of trustees of the firemen's pension
2 or relief fund shall consist of the executive officer of any
3 municipal corporation availing itself of the privileges of this
4 act, the chief of the fire department and three other persons,
5 members of the fire department, to be chosen as follows:

6 The executive officer of said municipal corporation shall give
7 notice of an election to be held on the second Monday of the
8 month following the passage of the ordinance mentioned in
9 the first section hereof, which notice shall be served upon each
10 member of the fire department and which shall notify each
11 member that between the hours of nine in the forenoon and
12 six in the afternoon, on the day designated for such election,
13 the election will be held for such purpose and that each mem-
14 ber shall send under seal, in writing, the names of three per-
15 sons, members of such fire department voted for, and all votes
16 so cast shall be counted and canvassed by the said executive
17 officer together with the chief of the fire department, who shall
18 announce the result, and the three members of the fire de-
19 partment receiving the highest number of votes shall, with
20 the said executive officer and the chief of the fire department,
21 constitute "The Board of Trustees of the said Firemen's Pen-
22 sion or relief fund" for the ensuing year. In case of a tie
23 vote being received by any two persons for the office of trus-

24 tee, such tie vote shall be decided by casting lots, or in any
25 other way which may be agreed upon by the persons for whom
26 such tie vote was cast. The result of such election shall be
27 entered in the record of the proceedings of said board and the
28 members so elected shall serve for one year and until their
29 successors are elected. The election for such members of the
30 board of trustees shall be held annually upon the second Mon-
31 day of the same month upon which the first election occurred.
32 In case of vacancy by death, resignation, or otherwise, among
33 the members so elected, the remaining members shall choose
34 the successor, or successors, until the next annual election.
35 The presiding officer of the board of trustees shall be the execu-
36 tive officer of the municipal corporation availing itself of the
37 benefits of this act, and the secretary thereof shall be appointed
38 by said board.

39 It shall be the duty of such secretary to keep a full and per-
40 manent record of all the proceedings of the board, and said
41 trustees may fix his compensation for this work, which shall
42 be paid out of the funds of said firemen's pension or relief
43 fund.

Sec. 4. Where it is desired to establish also a policemen's
2 pension or relief fund, the method of procedure shall be in all
3 respects the same as provided for the formation of the fire-
4 men's pension or relief fund in the preceding section; *pro-*
5 *vided, however,* that there shall be a separate board of trus-
6 tees, composed of the executive officer of the municipal cor-
7 poration, the chief of police and three members from the police
8 department, the three members to be elected in the same man-
9 ner as provided for the election of firemen to the firemen's
10 pension or relief fund in the preceding section.

Sec. 5. In every municipality availing itself of the pro-
2 visions of this section, there shall be a firemen's pension or re-
3 lief fund or a policemen's pension or relief fund, or both, as
4 the case may be, which shall be maintained as follows:

5 The council or other legislative body of such municipality
6 is hereby authorized to levy annually, and in the manner pro-
7 vided by law for other municipal levies, and in addition to all
8 of such municipal levies, a tax not to exceed seven and one-half
9 mills on each one hundred dollars of all the real and personal
10 property as listed for taxation in such municipality for the
11 firemen's pension fund, and a like levy not to exceed seven

12 and one-half mills on each one hundred dollars of all the real
13 and personal property as listed for taxation in said munic-
14 pality for a policemen's pension fund, or either of them. The
15 amount of tax to be levied shall be fixed and determined by
16 said board of trustees as aforesaid, and certified to the coun-
17 cil or other legislative body of such municipality.

18 All fines imposed upon any member of the fire department
19 and the police department, or either of them, by way of dis-
20 cipline or punishment shall be credited to said pension or re-
21 lief fund of the department to which the member so fined
22 belongs; and said corporation is authorized to take by gift,
23 grant, devise or bequest, any money or real or personal prop-
24 erty, upon such terms as to the investment and expenditure
25 thereof as may be fixed by the grantor or determined by said
26 trustees.

27 In addition to all other sums provided for pension in this
28 section, it shall be the duty of the municipal corporation avail-
29 ing itself of the privileges of this act to assess and collect from
30 each member of said fire department or police department, or
31 both of them, as the case may be, the sum of one dollar each
32 month, which sum shall be deducted from the monthly pay of
33 said person and the amount so collected shall become a regular
34 part of the firemen's pension fund, if collected from a fire-
35 man, and of the policemen's pension fund, if collected from a
36 policeman; *provided, however*, that all sums assessed against
37 and collected from any employee shall, in case said employee
38 be discharged or voluntarily leave his employment with said
39 municipal corporation without receiving the benefit of said
40 pension fund, be returned to him together with all its accrued
41 interest, and no fireman or policeman shall be entitled to the
42 benefits of this act unless and until he pay into his respective
43 pension or relief fund the said sum of one dollar per month,
44 as provided in this section.

Sec. 6. The treasurer of every municipality having a fire-
2 men's or a policemen's pension or relief fund, or both, shall
3 be the custodian of said fund, or funds, and shall pay out
4 the same upon the proper order of the board of trustees, who
5 shall be liable upon his official bond as treasurer for the faith-
6 ful performance of his duties in respect to this fund or funds.
7 This fund or funds shall not be used for any other purpose
8 than provided herein.

Sec. 7. The said board of trustees shall invest any moneys 2 received by them either in interest-bearing bonds of the United 3 States, of the State of West Virginia, or of county, school dis- 4 trict or municipal corporation in which said municipality may 5 be situated, or upon approved real estate security to the extent 6 of not more than fifty per cent of the assessed value of such 7 real estate. Said board of trustees shall make a report to the 8 council, or other legislative body of the municipality on the 9 condition of said fund on the thirty-first day of December of 10 each year.

Sec. 8. Until the expiration of five years from the time of 2 the creation of said corporation, unless otherwise authorized 3 by ordinance of said municipal corporation, no payment shall 4 be made to any member except from the income arising from 5 said fund; and if at any time there shall not be sufficient 6 money to the credit of said pension fund to pay each person 7 entitled to the benefit thereof the full amount per month, as 8 herein provided, then, and in that event, an equal percentage 9 of said monthly payments shall be made to each beneficiary 10 thereof, until said fund is so replenished as to warrant pay- 11 ment in full to each of said beneficiaries.

Sec. 9. Any member of a municipal fire department or 2 police department who is entitled to the benefits under this 3 act, and who has been in continuous service of such depart- 4 ment for twenty-three years, may, upon written application 5 to the chief of said department, be retired from all service 6 from such department without medical examination or dis- 7 ability, and on such retirement the board of trustees shall 8 authorize the payment to such retired member during the re- 9 mainder of his life of a sum equal to one-half the wages or 10 salary he received upon retirement from such department. 11 but no member of such department may be retired until he 12 shall have attained the age of fifty years. A member of such 13 department who may have served twenty-three years, but not 14 continuously, will be entitled to the benefits of this act, pro- 15 vided he shall not have been out of the service for a period 16 longer than two years.

17 In no event shall the sum to be paid to permanently dis- 18 abled members exceed the following amount: Those in con- 19 tinuous service of the fire department or police department 20 over one and under ten years, shall, upon retirement, receive-

21 not to exceed one dollar and twenty-five cents per day; and
22 those in the service continuously for over ten years and under
23 twenty years, shall, upon retirement, received ten-sixteenths
24 of their salary per month; and those in the service over twenty
25 years, shall, upon retirement, receive, eleven-sixteenths of
26 their salary per month.

Sec. 10. In case any such municipal employee who has
2 been in continuous service for over five years shall be killed or
3 die, then, and in that case, the board of trustees of said pen-
4 sion fund shall pay to the dependent wife or dependent minor
5 children or dependent mother or father, or brothers and sis-
6 ters, if there be any such one or ones, the following pensions,
7 viz:

8 To the widow, the sum of twenty dollars per month until
9 her death or re-marriage; for the support and maintenance
10 of any dependent children, the sum of five dollars per month
11 for each child until said child shall have attained the age of
12 sixteen years; provided that said widow shall not receive from
13 said fund for the support and maintenance of herself and
14 said children an amount in excess of thirty dollars per month;
15 to a dependent mother and father, or either, the sum of ten
16 dollars per month to each; to dependent brothers and sisters,
17 until they shall have attained the age of sixteen years, the
18 sum of five dollars per month for each, but in no case to ex-
19 ceed the total amount paid to brothers and sisters the sum of
20 thirty dollars per month. And provided further that the
21 total payments to the dependents of any such municipal em-
22 ployee shall not exceed an amount in the sum of thirty dollars
23 per month.

Sec. 11. The dependent wife, child or children, or de-
2 pendent father or mother, brothers or sisters of any such muni-
3 cipal employee who shall be killed in the performance of his
4 duties shall, regardless of the length of his service, receive a
5 pension as provided for in that portion of section ten fixing
6 the amount to be paid to the dependents, but in no case to
7 exceed the sum of thirty dollars per month.

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

CHAPTER 45

(House Bill No. 91—Mr. Everhart)

AN ACT to amend section twenty-seven of chapter sixteen of the acts of the legislature of one thousand nine hundred and fifteen, as amended by section twenty-seven of chapter fifty-three of the acts of one thousand nine hundred and nineteen, relating to weights and measures.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.
27. Standard weights and measures
of commodities defined; incon-
sistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section twenty-seven of chapter sixteen of the acts of the legislature of one thousand nine hundred and fifteen as amended by section twenty-seven of the acts of one thousand nine hundred and nineteen, chapter fifty-three, be amended and re-enacted to read as follows:

A bushel, half bushel, peck, half peck, quarter peck, quart and pint of the respective articles hereinafter

2 mentioned shall be the amount of weight, avoirdupois, as shown by the following table:

3	Bu.	½ Bu.	Peck	½ Peck	¼ Peck	Quart	Pint
4	Lbs.	Lbs.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.
5 Apples (green).....	48	24	12	6	3	1 8	12
6 Apples (dried).....	24	12	6	3	1 8	12	6
7 Alfalfa Seed.....	60	30	15	7 8	3 12	1 14	15
8 Apple Seed.....	40	20	10	5	2 8	1 4	10
9 Beans (dried shell).....	60	30	15	7 8	3 12	1 14	15
10 Beans, castor.....	46	23	11 8	5 12	2 14	1 7	11½
11 Beans (unshelled).....	38	19	9 8	4 12	2 6	1 3	9½
12 Beans (stringed).....	24	12	6	3	1 8	12	6
13 Beans (limas).....	56	28	14	7	3 8	1 12	14

14 Beans, soy.....	58	29	14	8	7	4	3	10	1	13	.....	14½
15 Beans, scarlet pole.....	50	25	12	8	6	4	3	2	1	9	.....	12½
16 Beets.....	56	28	14	.....	7	.....	3	8	1	12	.....	14
17 Blackberries.....	48	24	12	.....	6	.....	3	.....	1	8	.....	12
18 Blue grass seed.....	14	7	3	8	1	12	.....	14	.....	7	.....	3½
19 Blue grass seed (English).....	22	11	5	8	2	12	1	6	.....	11	.....	5½
20 Broom corn seed.....	57	28½	14	4	7	2	3	9	1	12½	.....	14¼
21 Buckwheat.....	48	24	12	.....	6	.....	3	.....	1	8	.....	12
22 Barley.....	48	24	12	.....	6	.....	3	.....	1	8	.....	12
23 Bran.....	20	10	5	.....	2	8	1	4	.....	10	.....	5
24 Cabbage.....	50	25	12	8	6	4	3	2	1	9	.....	12½
25 Canary seed.....	60	30	15	.....	7	8	3	12	1	14	.....	15

26		Bu.	½ Bu.	Peck	½ Peck	¼ Peck	Quart	Pint			
27	COMMODITY	Lbs.	Lbs.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.
28	Carrots.....	50	25	12 8	6 4	3 2	1 9	.....	12½		
29	Cement.....	100	50	25	12 8	6 4	3 2	.....	1 10		
30	Charcoal.....	20	10	5	2 8	1 4	.....	10	.....	5	
31	Cherries (with stems).....	56	28	14	7	3 8	1 12	.....	14		
32	Cherries (without stems).....	64	32	16	8	4	2 .....	.....	1		
33	Chestnuts	50	25	12 8	6 4	3 2	1 9	.....	12½		
34	Clover seed.....	60	30	15	7 8	3 12	1 14	.....	15		
35	Coal.....	80	40	20	10	5	2 8	.....	1° 4		
36	Coke.....	40	20	10	5	2 8	1 4	.....	10		
37	Corn (cracked).....	50	25	12 8	6 4	3 2	1 9	.....	12½		
38	Corn (ear dry).....	68	34	17	8 8	4 4	2 2	.....	1 1		

39 Corn (ear green).....	72	36	18	.....	9	.....	4	8	2	4	1	2
40 Corn (shelled).....	56	28	14	.....	7	.....	3	8	1	12	.....	14
41 Corn (sweet).....	50	25	12	8	6	4	3	2	1	9	.....	12½
42 Corn meal.....	48	24	12	.....	6	.....	3	.....	1	8	.....	12
43 Corn meal (bolted).....	46	23	11	8	5	12	2	14	1	7	.....	11½
44 Cotton seed.....	32	16	8	.....	4	.....	2	.....	1	.....	.....	8
45 Cotton seed (S. I.).....	44	22	11	.....	5	8	2	10	1	6	.....	11
46 Cranberries.....	36	18	9	.....	4	8	2	4	1	2	.....	9
47 Cucumbers (green).....	50	25	12	8	6	4	3	2	1	9	.....	12½
48 Currants.....	40	20	10	.....	5	.....	2	8	1	4	.....	10
49 Flax seed.....	56	28	14	.....	7	.....	3	8	1	12	.....	14
50 Gooseberries.....	40	20	10	.....	5	.....	2	8	1	4	.....	10

51		Bu.	½ Bu.	Peck	½ Peck	¼ Peck	Quart	Pint					
52	COMMODITY	Lbs.	Lbs.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	
53	Grapes (with stems).....	48	24	12	6	3	7	8	.....	12			
54	Grapes.....	60	30	15	7	8	3	12	1	14	.....	15	
55	Hair (washed).....	4	2	1	.....	8	.....	4	.....	2	.....	1	
56	Hair (unwashed).....	8	4	2	.....	1	.....	8	.....	4	.....	2	
57	Hemp seed.....	44	22	11	.....	5	8	2	12	1	6	.....	11
58	Herds grass.....	45	22½	11	4	5	10	2	13	1	6½	.....	11¼
59	Hickory Nuts.....	50	25	12	8	6	4	3	2	1	9	.....	12½
60	Hominy.....	60	30	15	.....	7	8	3	12	1	14	.....	15
61	Horse radish.....	50	25	12	8	6	4	3	2	1	9	.....	12½
62	Huckleberries.....	52	26	13	.....	6	8	3	4	1	10	.....	13
63	Hungarian grass.....	50	25	12	8	6	4	3	2	1	9	.....	12½

64 Kaffir corn.....	56	28	14	.....	7	.....	3	8	1	12	.....	14
65 Kale.....	15	7½	3	12	1	14	.....	15	.....	7½	.....	3¾
66 Lime (unslaked).....	70	35	17	8	8	12	4	6	2	3	1	1½
67 Lime (slaked).....	40	20	10	.....	5	.....	2	8	1	4	.....	10
68 Malt.....	34	17	8	8	4	4	2	2	1	1	.....	8½
69 Millet.....	50	25	12	8	6	4	3	2	1	9	.....	12½
70 Millet (Japan).....	35	17½	8	12	4	6	2	3	1	1½	.....	8¾
71 Oats.....	32	16	8	.....	4	.....	2	.....	1	.....	.....	8
72 Onions.....	55	27½	13	12	6	14	3	7	1	11½	.....	13¾
73 Onions (bottom sets).....	32	16	8	.....	4	.....	2	.....	1	.....	.....	8
74 Onions (top sets).....	28	14	7	.....	3	8	1	12	.....	14	.....	7
75 Orchard grass.....	14	7	3	8	1	12	.....	14	.....	7	.....	3½

76		Bu.	½ Bu.	Peck	½ Peck	¼ Peck	Quart	Pint	
77	COMMODITY	Lbs.	Lbs.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	Lb. Oz.	
78	Osage orange seed.....	33	16½	8 4	4 2	2 1	1 ½	.....	8¼
79	Parsnips.....	42	21	10 8	5 4	2 10	1 5	.....	10½
80	Peaches.....	48	24	12	6	3	1 8	.....	12
81	Peaches (dried).....	33	16½	8 4	4 2	2 1	1 ½	.....	8¼
82	Peanuts.....	23	11½	5 12	2 14	1 7	.....	11½	5¾
83	Pears.....	50	25	12 8	6 4	3 2	1 9	.....	12½
84	Peas (dry).....	60	30	15	7 8	3 12	1 14	.....	15
85	Peas (green, shelled).....	50	25	12 8	6 4	3 2	1 9	.....	12½
86	Peas (green, unshelled).....	30	15	7 8	3 12	1 14	.....	15	7½
87	Peas (wrinkled).....	56	28	14	7	3 8	1 12	.....	14
88	Plums.....	60	30	15	7 8	3 12	1 14	.....	15

89 Potatoes (Irish)	56	28	14	.....	7	.....	3	8	1	12	.....	14
90 Potatoes (sweet)	50	25	12	8	6	4	3	2	1	9	.....	12½
91 Quinces	48	24	12	.....	6	.....	3	.....	1	8	.....	12
92 Rape seed	50	25	12	8	6	4	3	2	1	9	.....	12½
93 Raspberries	48	24	12	.....	6	.....	3	.....	1	8	.....	12
94 Red Top grass seed.....	14	7	3	8	1	12	.....	14	.....	7	.....	3½
95 Rice corn (shelled).....	56	28	14	.....	7	.....	3	8	1	12	.....	14
96 Rice corn (unshelled).....	45	22½	11	4	5	10	2	13	1	6½	.....	11¼
97 Rutabagas	50	25	12	8	6	4	3	2	1	9	.....	12½
98 Rye	56	28	14	.....	7	.....	3	8	1	12	.....	14
99 Rye meal	50	25	12	8	6	4	3	2	1	9	.....	12½
100 Salt (coarse)	70	35	17	8	8	12	4	6	2	3	1	1½

101		Bu.	½ Bu.	Peck		½ Peck		¼ Peck		Quart		Pint	
102	COMMODITY	Lbs.	Lbs.	Lb.	Oz.	Lb.	Oz.	Lb.	Oz.	Lb.	Oz.	Lb.	Oz.
103	Salt (fine).....	50	25	12	8	6	4	3	2	1	9	.....	12½
104	Sand.....	130	65	32	8	16	4	8	2	4	1	2	½
105	Shorts.....	20	10	5	.....	2	8	1	4	.....	10	.....	5
106	Sorghum seed.....	57	28½	14	4	7	2	3	9	1	12½	.....	14¼
107	Spelt or Speltz.....	40	20	10	.....	5	.....	2	8	1	4	.....	10
108	Spinach.....	15	7½	3	12	1	14	.....	15	.....	7½	.....	3¾
109	Strawberries.....	48	24	12	.....	6	.....	3	.....	1	8	.....	12
110	Timothy seed.....	45	22½	11	4	5	10	2	13	1	6½	.....	11¼
111	Tomatoes.....	56	28	14	.....	7	.....	3	8	1	12	.....	14
112	Turnips.....	55	27½	13	12	6	14	3	7	1	11½	.....	13¾
113	Walnuts.....	50	25	12	8	6	4	3	2	1	9	.....	12½
114	Wheat.....	60	30	15	.....	7	8	3	12	1	14	.....	15

- 115 One barrel of flour shall contain one hundred and ninety-six pounds, one-half barrel ninety-eight pounds,
116 one-quarter barrel forty-nine pounds, one-eighth barrel twenty-four and one-half pounds and one-sixteenth
117 barrel twelve and one-quarter pounds, net weight.
- 118 One barrel of lime shall contain two hundred pounds.
- 119 A ton shall contain two thousand pounds.
- 120 The standard barrel for fruit, vegetables and produce shall be of the following dimensions: Inside staves
121 at ends, seventeen and one-eighth inches; distance between heads, inside, twenty-six inches; circumference
122 over bilge, sixty-four inches, and capacity seven thousand and fifty-six cubic inches.
- 123 All acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER 46

(House Bill No. 90—Mr. Everhart)

AN ACT to amend and re-enact section three of chapter fifty-seven of the code of West Virginia, Barnes' edition of one thousand nine hundred and sixteen, relating to the property of religious, educational and benevolent institutions.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

3. Conveyances for benefit of educational or benevolent institutions.

Be it enacted by the Legislature of West Virginia:

That section three of chapter fifty-seven of the code of West Virginia, Barnes' edition of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 3. Where any conveyance of land or personal property has been made or shall be made to trustees for the use of any college, academy, high school or other seminary of learning, or for use of any society of Free Masons, Odd Fellows, Sons of Temperance or Good Templars, or for an orphans' asylum or children's home, Daughters of the American Revolution, United Daughters of the Confederacy, or other benevolent association or purpose; or if without the intervention of trustees such conveyance has been made since the thirty-first day of March, one thousand eight hundred and forty-eight or shall be hereafter made for such use or purposes, same shall be valid and the land shall be held for such use or purpose only.

All acts or parts of acts inconsistent herewith are hereby repealed.

CHAPTER 47

(House Bill No. 107—Mrs. Gates)

AN ACT to amend and re-enact chapter one hundred and eighteen of the acts of the legislature of West Virginia for the year one thousand nine hundred and nineteen, and to add thereto additional sections to be known as sections fourteen-*h*, fourteen-*i*, fourteen-*j* and fourteen-*k*.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 14-a. Sheriff shall designate deputy as humane officer.</p> <p>14-b. Duties of officers; obstruction or interference with officer in discharge of duties, misdemeanor; penalty, fine or imprisonment or both.</p> <p>14-c. Animals abandoned or neglected taken in charge by officer; expenses constitutes lien, recovery by civil action.</p> <p>14-d. Officer to keep in possession animal until expenses are paid.</p> <p>14-e. May destroy animal upon certificate of veterinary surgeon in certain cases.</p> <p>14-f. Expenses collected from owner in action therefor.</p>	<p>SEC. 14-g. Holder of lien may sell animal at public auction; notice required.</p> <p>14-h. Issuance of warrants authorized; search prohibited after sunset.</p> <p>14-i. Shooting of live birds to test marksmanship a misdemeanor; penalty, fine or imprisonment or both.</p> <p>14-j. Training of birds or animals for fighting prohibited.</p> <p>14-k. Officers may, without warrants, enter place or building and seize birds or animals kept for fighting.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter one hundred and eighteen of the acts of the legislature for the year one thousand nine hundred and nineteen be amended so as to read as follows:

Section 14-a. The sheriff of each county of this state shall 2 annually designate, by a record made in the office of the clerk 3 of the county court, one of his deputies to act as humane officer 4 of said county, and it shall be the duty of the deputy sheriff so 5 designated to act as humane officer, as well as all peace officers 6 as designated by law, to investigate all complaints made to him 7 of cruel or inhuman treatment of animals within his county, 7-a and to personally see that the law relating to the pre- 8 vention of cruelty to animals is enforced; and failure to 9 investigate any complaint made to him and to take proper 10 measures in such case or to perform his duty in any other re- 11 spect shall constitute good cause for removal from office.

Sec. 14-b. It shall be the duty of such officers to pre- 2 vent the perpetration or continuance of any act of cruelty 3 upon any animal in his presence, and to arrest and prosecute 4 any person engaging in such cruel and forbidden practices in 5 his presence or whom he finds reasonable cause to believe guilty 6 thereof after investigating any complaint made to him, and 7 any person who shall interfere with, or obstruct, or resist any 8 such officer in the discharge of his duty, shall upon conviction, 9 be fined not less than five nor more than fifty dollars or im- 10 prisoned in the county jail not more than thirty days, or both, 11 and this shall be in addition to any penalty such person may 12 incur for cruel or inhuman treatment of any animal.

Sec. 14-c. When any person arrested is, at the time of such
2 arrest, in charge of any vehicle drawn by or containing any
3 animal cruelly treated, such officer shall take charge of such
4 animal and of such vehicle and its contents, and of the animal
5 or animals drawing the same, and shall, if the person in charge
6 thereof be not the owner, give notice of such seizure to the
7 owner, and provide for them until their owner shall take charge
8 of the same; and if the person in charge of or driving such ani-
9 mals be the owner thereof the same shall not be returned to
10 him until he has been tried for the offense and acquitted, or if
11 convicted, until he shall give bond in the penalty of five hun-
12 dred dollars with approved security before the tribunal trying
13 the case conditioned not to again cruelly treat such animals;
14 and the officer shall have a lien upon such animals and the
15 vehicle and its contents for the expenses of such care and provi-
16 sion, or such expenses or any part thereof remaining unpaid
17 may be recovered by such humane officer in a civil action.

Sec. 14-d. Such officers shall take charge of any ani-
2 mal found abandoned, neglected, or cruelly treated, and shall
3 thereupon give notice thereof to the owner, if known, and shall
4 care and provide for such animal until the owner shall take
5 charge of the same, and the expense of such care and provisions
6 shall be a charge against the owner and a lien upon the animal,
7 and such animal shall not be turned over to such owner until
8 the same is paid; *provided*, that if it shall appear to such offi-
9 cers that the owner of such animal has wilfully abandoned, neg-
10 lected or cruelly treated the same, such animal shall not be re-
11 turned to him until he has been acquitted of the charge, or if
12 convicted thereof until he has given bond as provided in the
13 last preceding section, and not then until he has fully paid all
14 charges for the care and provisions for such animal during the
15 time it shall have been in the possession of such humane officer.

Sec. 14-e. Any such officers may lawfully destroy or
2 cause to be destroyed any animal in his charge, when in the
3 judgment of such humane officer and by the written certificate
4 of a regularly licensed veterinary surgeon, that such animal ap-
5 pears to be injured, disabled, diseased past recovery or unfit for
6 any useful purpose.

Sec. 14-f. When said officers shall provide any neg-
2 lected or abandoned animal with proper food, shelter and care,
3 he shall have a lien upon such animal for the expense thereof,
4 and such expense shall be charged against the owner of said

5 animal and collectible from said owner in an action therefor.

Sec. 14-g. The said officers or any person or corporation entitled to a lien under any of the provisions of this act may enforce the same by selling the animal or animals and other personal property upon which said lien is given, at public auction, upon giving written notice to the owner, if he be known, of the time and place of such sale, at least five days previous thereto, and by posting three notices of the time and place of such sale in three public places within the county, at least five days previous thereto; and if the owner be not known, then such notice shall be posted at least ten days previous to such sale.

Sec. 14-h. If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes and has reasonable cause to believe that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

Sec. 14-i. Whoever keeps or uses a live bird to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be punished by fine of not more than fifty dollars or by imprisonment for not more than one month, or by both. Nothing herein contained shall apply to the shooting of wild game.

Sec. 14-j. If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes and has reasonable cause to believe that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or

12 night, and take possession of all such birds, dogs or other ani-
 13 mals there found and to arrest all persons there present at any
 14 such exhibition or where preparations for such an exhibition are
 15 being made, or where birds, dogs, or other animals are kept or
 16 trained for fighting.

Sec. 14-k. Any officer authorized to serve criminal process,
 2 may, without warrant, enter any place, building, or tenement in
 3 which there is an exhibition of the fighting of birds, dogs, or
 4 other animals, or in which preparations are being made for such
 5 an exhibition and arrest all persons there present and take pos-
 6 session of and remove from the place of seizure the birds, dogs,
 7 or other animals engaged in fighting, or there found and in-
 8 tended to be used or engaged in fighting, or kept or trained
 9 for fighting and hold the same in custody subject to the order
 10 of the court as hereinafter provided.

CHAPTER 48

(House Bill No. 177—Mr. Huber)

AN ACT to amend and re-enact section six, chapter thirty, of the
 acts of one thousand nine hundred and nineteen relating to in-
 spection of factories, mercantile establishments, mills or work-
 shops.

[Passed April 24, 1923. In effect ninety days from passage. Approved by the
 Governor May 1, 1923]

SEC.

6. Factory equipment and inspec-
 tion; salary of commissioner,
 clerks, etc.; acts in conflict re-
 pealed.

Be it enacted by the Legislature of West Virginia:

That section six of chapter thirty, acts of one thousand nine hun-
 dred and nineteen, relating to the inspection of factories, mercantile
 establishments, mills or workshops be amended and re-enacted so as
 to read as follows:

Section 6. All rooms, buildings and places in this state where
 2 labor is employed or shall hereafter be employed, in any fac-
 3 tories, mercantile establishments, mills or workshops, shall be so
 4 constructed, equipped and arranged, operated and conducted, in
 5 all respects, as to provide reasonable and adequate protection
 6 for the life, health, safety and morals of all persons employed

7 therein. Where accidents occur in any factories, mercantile es-
 8 tablishments, mills or workshops, causing employees, from the
 9 nature of the accident, to be away from his or her duties for a
 10 period of ten consecutive days, a report shall be made to the
 11 bureau of labor of said accident on blanks to be furnished by the
 12 commissioner of labor. If death occurs, report shall be made
 13 within ten days thereafter. For the carrying into effect of these
 14 provisions, and the provisions of all the laws of this state, the
 15 enforcement of which is now or shall hereafter be intrusted to or
 16 imposed upon the bureau of labor, the commissioner of labor
 17 shall appoint six factory inspectors. The commissioner of labor
 18 may at any time divide the state into inspection districts as
 19 to him may seem advisable and assign the inspectors to the
 20 several districts. The commissioner of labor shall appoint a
 21 chief clerk and such other clerks and stenographers as the good
 22 of the service requires and within the appropriation made by
 23 the legislature. The salary of the commissioner of labor pro-
 24 vided for in this act shall be four thousand dollars per annum.
 25 All acts and parts of acts inconsistent with this act are here-
 26 by repealed.

CHAPTER 49

(House Bill No. 307—Mr. Huber)

AN ACT to amend and re-enact chapter fifteen of the acts of one thousand nine hundred and one, relating to an employment bureau.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC. 1. Employment bureau, commissioner of labor authorized to establish.		SEC. 2. No compensation, etc.; assistance and expense, limit. 3. Expenses, how paid; acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That chapter fifteen, acts of one thousand nine hundred and one, relating to an employment bureau, be amended and re-enacted so as to read as follows:

Section 1. The commissioner of labor is hereby authorized
 2 to organize and establish in connection with the bureau of
 3 labor and in co-operation with the United State employment

4 service of the United States department of labor, a free em-
5 ployment bureau for the purpose of receiving applications
6 from persons seeking employment and applications from per-
7 sons seeking to employ labor.

Sec. 2. No compensation or fee shall be charged or received
2 directly or indirectly from persons applying for work, infor-
3 mation or help through said department. The commissioner
4 of labor is hereby authorized to employ such assistance and
5 incur such expense as may be necessary to carry into effect
6 the purpose of this act. But such assistance and expense shall
7 not exceed twenty-five hundred dollars per annum.

Sec. 3. The expenses of the employment bureau shall be
2 paid in the same manner and way as other expenses of the
3 bureau of labor.

4 All acts and parts of acts in conflict with this act are hereby
5 repealed.

CHAPTER 50

(House Bill No. 188—Mr. Huber)

AN ACT to amend section sixty-five-a of chapter fifty-four of the
code of West Virginia as amended, relating to completion of
railroads.

[Passed April 19, 1923. In effect ninety days from passage. Approved by the
Governor May 1, 1923]

SEC.
65-a. Limit of time within which rail-
roads shall be completed and
put in operation.

Be it enacted by the Legislature of West Virginia:

That section sixty-five-a, chapter fifty-four of the code of West
Virginia be amended so as to read as follows:

Section 65-a. Notwithstanding the provisions of any of
2 the sections of the code of West Virginia prescribing the time
3 for construction or completion of railroads within this state, any
4 railroad company heretofore organized under the laws of this
5 state since January first, one thousand nine hundred and two,
6 which shall have heretofore spent twenty per centum of its stock
7 actually subscribed shall have five years from and after the
8 present expiration date for such completion within which to
9 complete its railroad and put the same in operation.

CHAPTER 51

(House Bill No. 189—Mr. Cooper)

AN ACT to co-ordinate the functions of the commissioner of agriculture and the extension department of the state university and to create the state bureau of agriculture.

[Passed April 24, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Bureau of agriculture created; of whom it shall consist; duties of members; arbitration board; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That a state bureau of agriculture be and the same is hereby created to consist of the commissioner of agriculture and the director of the agricultural extension of the university, *ex-officio*. It shall be the duty of the members of said bureau to meet together at the seat of government at least four times each year at regular intervals and to consider the conditions and needs of the agricultural interests of the state and as to how and in what manner the functions, powers and duties assigned by law to each department of agriculture may be most efficiently and economically administered for the benefit of the state and so that there may be neither overlapping, duplication nor interference of, by or with the work of the one department with that of the other, and that the department best calculated to exercise and discharge certain powers, duties or functions be thereunto appointed and authorized, and that the other department shall desist from further activities in that behalf. In case the members of said bureau shall fail to agree upon any matter in issue hereunder, the governor shall be and is hereby constituted the umpire, and shall decide the matter of difference between them, and his decision shall be final. The department against which such decision shall be, shall cease all activities not in conformity with such decision, and the other department shall proceed to carry on the work in conformity therewith.

All acts and parts of acts coming within the purview of this act and inconsistent with its terms, are hereby repealed.

CHAPTER 52

(House Bill No. 190—Mr. Pence)

AN ACT to amend and re-enact chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen, regulating the sale of commercial fertilizers.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 1. Terms defined: "fertilizer", "person". 2. Affidavit filed with commissioner of agriculture. 3. Analysis as set out in section two. 4. Commissioners shall take or cause samples to be taken, analyze same and publish results.</p>	<p>SEC. 5. Inspection authorized; shall report offenses to Prosecuting Attorney; offender subject to penalties of act. 7. Violation, misdemeanor; penalty, first offense, fine twenty to one hundred dollars; second offense, fine of fifty to five hundred dollars.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter forty-four of the acts of the legislature of one thousand nine hundred and seventeen is hereby amended and re-enacted so as to read as follows:

Section 1. For the purpose of this act, the term "fertilizer" shall be held to mean any article, substance or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals, when sold as such, without brand, name or trade mark, and burnt lime and ground limestone and marl when sold with or without brand, name or trade mark; and the term "person" shall be held to include corporations, companies, societies, and associations, whether acting through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell in this state any fertilizer, shall, before the same is sold, offered or exposed for sale, file with the commissioner of agriculture a mark under which the fertilizer is to be sold, the name of the affidavit clearly and truly setting forth the name, brand or trade manufacturer, jobber or importer, the place of manufacture and the composition of the fertilizer, including the percentum of every constituent relied upon as contributing to the value of the fertilizer, and the materials from which said constituents are derived, said statements as to materials shall be quantitative; *provided*, that when the manufacturer, jobber or importer of any fertilizer shall file the affidavit required by this section, no agents or dealers selling the same fertilizer for him under his name and brand shall be required so to do; *provided*, that no

15 fertilizer shall be offered or exposed for sale in this state unless
16 the same contains twelve per cent or more of total available plant
17 food.

18 The affidavit required by this section shall be made annually,
19 but may be made at any time for the calendar year, and may be
20 filed in the month of December for the year following.

Sec. 3. Every bag, barrel or other package of fertilizer sold,
2 offered or exposed for sale in this state shall have branded on
3 or conspicuously attached to it a statement that the manufac-
4 turer thereof has complied with this act, the brand name of the
5 fertilizer, the net weight of the package, the name and address
6 of the manufacturer, and the guaranteed analysis of the ferti-
7 lizer set out as required in the affidavit required in section two;
8 *provided*, that this act shall not apply to fertilizer materials
9 sold to fertilizer manufacturers to be prepared or treated by
10 themselves and resold.

Sec. 4. The commissioner of agriculture, in person or by
2 deputy, shall take samples of any fertilizers on sale in the state
3 and for this purpose is hereby authorized to enter during busi-
4 ness hours any store room or other place where fertilizers are
5 sold, offered or exposed for sale; the said commissioner shall
6 cause the said samples to be analyzed according to methods of the
7 association of official agriculture chemists, official at the time and
8 shall publish the results; any purchaser of fertilizers within the
9 state may take a sample of the same in accordance with rules
10 and regulations of the commissioner of agriculture and if the
11 said commissioner has reason to believe that the fertilizer is not
12 as guaranteed in the affidavit, he shall cause the sample to be
13 analyzed free of charge and certify the results to the person
14 forwarding the same.

Sec. 5. In the discharge of his duties in behalf of agriculture
2 in this state, the commissioner shall seek to make the inspection
3 of fertilizers hereby intrusted to him as helpful as possible to
4 the purchasers of fertilizers in this state and is hereby author-
5 ized to make such rules and regulations as may be necessary to
6 carry into effect the full intent and meaning of this act; the said
7 commissioner shall report promptly to the prosecuting attorney
8 of the county in which the offense was committed, any violations
9 of this act and all failures to comply therewith and a copy of
10 any label, statement or tag required to be filed with the said
11 commissioner or prepared by him and any analysis made or

12 caused to be made by him when duly certified by the said com-
13 missioner shall be admissible in evidence to the same extent as
14 if it were his deposition taken in the manner prescribed by law
15 for the taking of depositions, in any prosecution or suit for any
16 violation of the provisions of this act.

17 Any manufacturer, dealer or agent who shall sell, offer or ex-
18 pose for sale in this state any fertilizer without first having
19 complied with the requirements of this act regarding such fertil-
20 izer, or any person who shall receive or remove any fertilizer
21 without its having been registered and branded as required by
22 this act, shall be guilty of a misdemeanor and be subject to
23 penalties prescribed under this act.

Sec. 7. Any person who shall violate any of the provisions of
2 this act or who shall fail to comply therewith, shall be guilty of
3 misdemeanor and on conviction thereof shall be fined not less
4 than twenty dollars and not more than one hundred dollars for
5 the first offense, and not less than fifty dollars and not more
6 than five hundred dollars for each subsequent offense.

CHAPTER 53

(House Bill No. 222—Mr. Patton)

AN ACT to amend and re-enact chapter one hundred and twenty-
one of the acts of the legislature of one thousand nine hun-
dred and twenty-one, regular session, all relating to the au-
thorization and the formation of non-profit, co-operative as-
sociations, with or without capital stock, for the purpose of
encouraging the orderly marketing of agricultural products
through co-operation; defining the various terms used therein;
enumerating the activities and powers of such an association;
prescribing the right and privileges of membership; provid-
ing for articles of incorporation, declaring what they shall
contain, manner of executing and filing, method of amending
same; providing for by-laws and what they may contain; pro-
viding for method of election of directors, filling of vacancies;
powers and duties of directors; division into election dis-
tricts; appointment of executive committees and allotment of
functions of powers; providing for officers, qualifications,
elections and functions; regulating issuance of member-

ship certificates or stock and payment therefor; limiting personal liability of members for debts of association; regulating voting power of members and stockholders; authorizing issuance of preferred stock, with or without right to vote; and the retirement thereof; providing for removal of officers and directors; providing for referendum to members; providing for a marketing contract; and prescribing remedies for breach of contract; authorizing general equitable remedies in the event of breach of agreement; stating presumption of control of products by landlords who have signed marketing agreements; providing for annual reports; providing that no provision of law in conflict with this act shall be construed as applying to such association; limiting the use of the word "co-operative" in names for producers' co-operative marketing activities; permitting associations to organize other corporations or to own stock in other corporations; providing for agreements with other co-operative associations in this or other states and stating the purposes or reasons therefor; providing that associations heretofore organized may reorganize hereunder; providing for similar rights and remedies for co-operative associations organized under generally similar laws in other states; making it a misdemeanor to spread false reports about it and prescribing a fine for each offense; making such offender liable to the association therefor in a civil suit; providing liability to the association; providing that no such association shall be deemed a conspiracy or an illegal combination or monopoly; and providing that marketing contracts shall not be considered illegal; providing that if any section of this act shall be declared unconstitutional, the remainder of this act shall not be thereby affected; and providing that the general corporation laws of this state shall apply to such associations, except where inconsistent with express provisions hereof.

[Passed April 18, 1923. In effect ninety days from passage. Approved by the Governor May 2, 1923]

- SEC.
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As it enacted by the Legislature of West Virginia:

That chapter one hundred and twenty-one of the acts of the legislature of one thousand nine hundred and twenty-one be amended and re-enacted to read as follows:

Declaration of Policy.

Section 1. In order to promote, foster and encourage the intelligent and orderly marketing of agricultural products through co-operation; and to eliminate speculation and waste; and to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of agriculture products to provide for the organization and incorporation of co-operative marketing associations for the marketing of such products, this act is passed.

Definitions As Used in This Act.

Sec. 2. (a) The term "agricultural products" shall include horticultural, viticultural, forestry, dairy, live stock, poultry, bee and any farm products.
 (b) The term "member" shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock.
 (c) The term "association" means any corporation organized under this act; and
 (d) The term "person" shall include individuals, firms, partnerships, corporations and associations.
 Associations organized hereunder shall be deemed "non-profit", inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.

15 (e) For the purposes of brevity and convenience this act
16 may be indexed, referred to and cited as "The Co-operative
17 Marketing Act."

Who May Organize.

Sec. 3. Eleven or more persons, a majority of whom are
2 residents of this state, engaged in the production of agricultural
3 products, may form a non-profit, co-operative association, with
4 or without capital stock, under the provisions of this act.

Purposes.

Sec. 4. An association may be organized to engage in any
2 activity in connection with the marketing or selling of the agri-
3 cultural products of its members, or with the harvesting, pre-
4 serving, drying, processing, canning, packing, grading, storing,
5 handling, shipping or utilization thereof, or the manufacturing
6 or marketing of the by-products thereof; or in connection with
7 the manufacturing, selling or supplying to its members of ma-
8 chinery, equipment or supplies; or in the financing of the above
9 enumerated activities; or in any one or more of the activities
10 specified herein.

Preliminary Investigation.

Sec. 5. Every group of persons contemplating the organiza-
2 tion of an association under this act is urged to communicate
3 with the dean of the college of agriculture at Morgantown, who
4 will inform them whatever a survey of the marketing condi-
5 tions affecting the commodities proposed to be handled may
6 indicate regarding probable success.

7 It is here recognized that agriculture is characterized by in-
8 dividual production in contrast to the group, or factory system
9 that characterizes other forms of industrial production; and
10 that the ordinary form of corporate organization permits indus-
11 trial groups to combine for the purpose of group production
12 and the ensuing group marketing and that the public has an
13 interest in permitting farmers to bring their industry to the
14 high degree of efficiency and merchandising skill evidenced in
15 the manufacturing industries; and that the public interest
16 urgently needs to prevent the migration from the farm to the
17 city in order to keep up farm production and to preserve the

18 agricultural supply of the nation; and that the public interest
19 demands that the farmer be encouraged to attain a superior
20 and more direct system of marketing in the substitution of mer-
21 chandising for the blind, unscientific and speculative selling
22 of crops; and that for this purpose, the farmers should secure
23 special guidance and instructive data from the dean of agri-
24 culture at the university of West Virginia at Morgantown.

Powers.

Sec. 6. Each association incorporated under this act shall
2 have the following powers:

3 (a) To engage in any activity in connection with the
4 marketing, selling, preserving, harvesting, drying, processing,
5 manufacturing, canning, packing, grading, storing, handling or
6 utilization of any agricultural products produced or delivered
7 to it by its members, or the manufacturing or marketing of the
8 by-products thereof; or any activity in connection with the
9 purchase, hiring or use by its members of supplies, machinery
10 or equipment; or in the financing of any such activities; or in
11 any one or more of the activities specified in this section. No
12 association, however, shall handle the agricultural products of
13 any non-member, except for storage.

14 (b) To borrow money without limitation as to amount of
15 corporate indebtedness or liability; and to make advance pay-
16 ments and advances to members.

17 (c) To act as the agent or representative of any member
18 or members in any of the above mentioned activities.

19 (d) To purchase or otherwise acquire, and to hold, own,
20 and exercise all rights of ownership in, and to sell, transfer
21 or pledge, or guarantee the payment of dividends or interest
22 on, or the retirement or redemption of, shares of the capital
23 stock or bonds of any corporation or association engaged in
24 any related activity or in the warehousing or handling or
25 marketing of any of the products handled by the association.

26 (e) To establish reserves and to invest the funds thereof
27 in bonds or in such other property as may be provided in the
28 by-laws.

29 (f) To buy, hold and exercise all privileges of ownership,
30 over real or personal property as may be necessary or conven-
31 ient for the conduct and operation of any of the business of the
32 association, or incidental thereto.

33 (g) To establish, secure, own and develop patents, trade-
34 marks and copyrights.

35 (h) To do each and every thing necessary, suitable or proper
36 for the accomplishment of any one of the purposes or the at-
37 tainment of any one or more of the subjects herein enumerated;
38 or conducive to or expedient for the interest or benefit of the
39 association; and to contract accordingly; and in addition to
40 exercise and possess all powers, rights and privileges necessary
41 or incidental to the purposes for which the association is organ-
42 ized or to the activities in which it is engaged; and in addition,
43 any other rights, powers and privileges granted by the laws
44 of this state to ordinary corporations, except such as are incon-
45 sistent with the express provisions of this act; and to do any
46 such thing anywhere.

Members.

Sec. 7. (a) Under the terms and conditions prescribed in
2 the by-laws adopted by it, an association may admit as mem-
3 bers, (or issue common stock to), only persons engaged in the
4 production of the agricultural products to be handled by or
5 through the association, including the lessees and tenants of
6 land used for the production of such products and any lessors
7 and landlords who receive as rent all or any part of the crop
8 raised on the leased premises.

9 (b) If a member of a non-stock association be other than a
10 natural person, such members may be represented by any indi-
11 vidual, associate, officer or manager or member thereof, duly
12 authorized in writing.

13 (c) One association organized hereunder may become a
14 member or stockholder of any other association or associations
15 organized hereunder.

Articles of Incorporation.

Sec. 8. Each association formed under this act must pre-
2 pare and file articles of incorporation, setting forth:

3 (a) The name of the association.

4 (b) The purposes for which it is formed.

5 (c) The place where its principal business will be trans-
6 acted.

7 (d) The term for which it is to exist, not exceeding fifty
8 years.

9 (e) The number of directors thereof, which must be not less
10 than five and may be any number in excess thereof; the term of
11 office of such directors; and the names and addresses of those
12 who are to serve as incorporating directors for the first term,
13 and or until the election and qualification of their successors.

14 (f) If organized without capital stock, whether the
15 property rights and interest of each member shall be equal or
16 unequal; and if unequal, the general rule or rules applicable
17 to all members by which the property rights and interests, re-
18 spectively, of each member may and shall be determined and
19 fixed; and provision for the admission of new members who
20 shall be entitled to share in the property of the association with
21 the old members, in accordance with such general rule or rules.
22 This provision or paragraph of the articles of incorporation
23 shall not be altered, amended, or repealed except by the written
24 consent or vote of three-fourths of the members.

25 (g) If organized with capital stock, the amount of such
26 stock and the number of shares into which it is divided and
27 the par value thereof.

28 The capital stock may be divided into preferred and com-
29 mon stock. If so divided, the articles of incorporation must
30 contain a statement of the number of shares of stock to which
31 preference is granted and the number of shares of stock to
32 which no preference is granted and the nature and definite
33 extent of the preference and privileges granted to each.

34 The articles must be subscribed by the incorporators and ac-
35 knowledged by one of them before an officer authorized by the
36 law of this state to take and certify acknowledgements of deeds
37 and conveyances; and shall be filed in accordance with the provi-
38 sions of the general corporation law of this state; and when
39 so filed, the said articles of incorporation, or certified copies
40 thereof, shall be received in all the courts of this state and other
41 places as *prima facie* evidence of the facts contained therein
42 and of the due incorporation of such association. A certified
43 copy of the articles of incorporation shall also be filed with the
44 dean of the college of agriculture at Morgantown.

Amendments to Articles of Incorporation.

Sec. 9. The articles of incorporation may be altered or
2 amended at any regular meeting or any special meeting
3 called for that purpose. An amendment must first be ap-

4 proved by two-thirds of the directors and then adopted by a
5 vote representing a majority of all the members of the associa-
6 tion. Amendments to the articles of incorporation, when so
7 adopted, shall be filed in accordance with the provisions of the
8 general corporation law of this state.

By-Laws.

Sec. 10. Each association incorporated under this act must,
2 within thirty days after its incorporation, adopt for its govern-
3 ment and management, a code of by-laws, not inconsistent with
4 the powers granted by this act. A majority vote of the mem-
5 bers or stockholders, or their written assent, is necessary to
6 adopt such by-laws. Each association, under its by-laws, may
7 provide for any or all of the following matters:

- 8 (a) The time, place and manner of calling and conducting
9 its meetings.
- 10 (b) The number of stockholders or members constituting
11 a quorum.
- 12 (c) The right of members or stockholders to vote by proxy
13 or by mail or both; and the conditions, manner, form, and ef-
14 fects of such votes.
- 15 (d) The number of directors constituting a quorum.
- 16 (e) The qualifications, compensation and duties and term
17 of office of directors and officers; time of their election and the
18 mode and manner of giving notice thereof.
- 19 (f) Penalties for violation of the by-laws.
- 20 (g) The amount of entrance, organization and membership
21 fees, if any; the manner and method of collection of the same;
22 and the purposes for which they may be used.
- 23 (h) The amount which each member or stockholder shall
24 be required to pay annually or from time to time, if at all, to
25 carry on the business of the association; the charge, if any, to
26 be paid by each member or stockholder for services rendered
27 by the association to him and the time of payment and the
28 manner of collection; and the marketing contract between the
29 association and its members or stockholders which every mem-
30 ber or stockholder may be required to sign.
- 31 (i) The number and qualifications of members or stock-
32 holders of the association and the conditions precedent to mem-
33 bership or ownership of common stock; the method, time and
34 manner of permitting members to withdraw or the holders of

35 common stock to transfer their stock; the manner of assign-
36 ment and transfer of the interest of members and of the shares
37 of common stock; the conditions upon which and time when
38 membership of any member shall cease; the automatic suspen-
39 sion of the rights of a member when he ceases to be eligible to
40 membership in the association; and the mode, manner and effect
41 of the expulsion of a member; the manner of determining the
42 value of a member's interest and provision for its purchase by
43 the association upon the death or withdrawal of a member or
44 stockholder, or upon the expulsion of a member or forfeiture of
45 his membership, or, at the option of the association, the pur-
46 chase at a price fixed by conclusive appraisal by the board of
47 directors. In case of the withdrawal or expulsion of a member,
48 the board of directors shall equitably and conclusively ap-
49 praise his property interests in the association and shall fix the
50 amount thereof in money, which shall be paid to him within
51 one year after such expulsion or withdrawal.

General and Special Meetings—How Called.

Sec. 11. In its by-laws, each association shall provide for
2 one or more regular meetings annually. The board of directors
3 shall have the right to call a special meeting at any time; and
4 ten per cent of the members or stockholders may file a petition
5 stating the specific business to be brought before the association
6 and demand a special meeting at any time. Such meeting must
7 thereupon be called by the directors. Notice of all meetings,
8 together with a statement of the purposes thereof, shall be
9 mailed to each member at least ten days prior to the meeting;
10 *provided, however,* that the by-laws may require instead that
11 such notice may be given by publication in a newspaper of
12 general circulation, published at the principal place of busi-
13 ness of the association.

Directors—Election.

Sec. 12. The affairs of the association shall be managed by
2 a board of not less than five directors, elected by the members
3 or stockholders from their own number. The by-laws may pro-
4 vide that the territory in which the association has members
5 shall be divided into districts and that the directors shall be
6 elected according to such districts, either directly or by district
7 delegates elected by the members in that district. In such a
8 case the by-laws shall specify the number of directors to be

9 elected by each district, the manner and the method of reap-
10 portioning the directors and of redistricting the territory cov-
11 ered by the association. The by-laws may provide that primary
12 elections shall be held in each district to elect the directors
13 apportioned to such districts and that the result of all such
14 primary elections may be ratified by the next regular meeting
15 of the association or may be considered final as to the associa-
16 tion. The by-laws may provide that one or more directors may
17 be appointed by any public official or commission or by the
18 other directors selected by the members or their delegates.
19 Such directors shall represent primarily the interest of the
20 general public in such associations. The directors so appointed
21 need not be members or stockholders of the association; but
22 shall have the same powers and rights as other directors. Such
23 directors shall not number more than one-fifth of the entire
24 number of directors.

25 An association may provide a fair remuneration for the time
26 actually spent by its officers and directors in its service and
27 for the service of the members of its executive committee. No
28 director, during the term of his office, shall be a party to a con-
29 tract for profit with the association differing in any way from
30 the business relations accorded regular members or holders of
31 common stock of the association or other, or differing from
32 terms generally current in that district.

33 The by-laws may provide that no director shall occupy any
34 position in the association, except the president and secretary
35 on regular salary or substantially full time pay.

36 The by-laws may provide for an executive committee and
37 may allot to such committee all the functions and powers of
38 the board of directors, subject to the general direction and con-
39 trol of the board.

40 When a vacancy on the board of directors occurs other than
41 by expiration of term, the remaining members of the board, by
42 a majority vote, shall fill the vacancy, unless the by-laws pro-
43 vide for an election of directors by district. In such a case the
44 board of directors shall immediately call a special meeting of
45 the members or stockholders in that district to fill the vacancy.

Election of Officers.

Sec. 13. The directors shall elect from their number a presi-
2 dent and one or more vice-presidents. They shall also elect a
3 secretary and a treasurer, who need not be directors or

4 members of the association; and they may combine the two lat-
5 ter offices and designate the combined office as secretary-
6 treasurer; or unite both functions and titles in one person.
7 The treasurer may be a bank or any depository, and as such,
8 shall not be considered as an officer, but as a function of the
9 board of directors. In such case, the secretary shall perform
10 the usual accounting duties of the treasurer, excepting that the
11 funds shall be deposited only as and where authorized by the
12 board of directors.

Officers, Employes and Agents to Be Bonded.

Sec. 14. Every officer, employe and agent handling funds
2 or negotiable instruments or property of or for any association
3 created hereunder shall be required to execute and deliver ade-
4 quate bonds for the faithful performace of his duties and obli-
5 gations.

*Stock—Membership Certificate—When Issued—Voting—Liability
—Limitations on Transfer and Ownership.*

Sec. 15. When a member of an association established with-
2 out capital stock has paid his membership fee in full, he shall
3 receive a certificate of membership.

4 No association shall issue stock to a member until it has been
5 fully paid for. The promissory notes of the members may be
6 accepted by the association as full or partial payment. The
7 association shall hold the stock as security for the payment of
8 the note; but such retention as security shall not affect the
9 member's right to vote.

10 No member shall be liable for the debts of the association to
11 an amount exceeding the sum remaining unpaid on his member-
12 ship fee or his subscription to the capital stock, including any
13 unpaid balance on any promissory notes given in payment
14 thereof.

15 No stockholder of a co-operative association shall own more
16 than one-twentieth of the common stock of the association; and
17 an association, in its by-laws, may limit the amount of com-
18 mon stock which one member may own to any amount less than
19 one-twentieth of the common stock.

20 No member or stockholder shall be entitled to more than one
21 vote, regardless of the number of shares of common stock
22 owned by him.

23 Any association organized with stock under this act may
24 issue preferred stock, with or without the right to vote. Such
25 stock may be sold to any person, member or non-member, and
26 may be redeemable or retireable by the association on such terms
27 and conditions as may be provided for by the articles of in-
28 corporation and printed on the face of the certificate. The
29 by-laws shall prohibit the transfer of the common stock of the
30 association to persons not engaged in the production of the
31 agricultural products handled by the association; and such re-
32 strictions must be printed upon every certificate of stock sub-
33 ject thereto.

34 The association may, at any time, as specified in the by-laws,
35 except when the debts of the association exceed fifty per cent
36 of the assets thereof, buy in or purchase its common stock at
37 the book value thereof, as conclusively determined by the board
38 of directors, and pay for it in cash within one year thereafter.

Removal of Officer or Director.

Sec. 16. Any member may bring charges against an officer
2 or director by filing them in writing with the secretary of the
3 association, together with a petition signed by five per cent of
4 the members, requesting the removal of the officer or director
5 in question. The removal shall be voted upon at the next
6 regular or special meeting of the association and, by a vote of a
7 majority of the members, the association may remove the officer
8 or director and fill the vacancy. The director or officer, against
9 whom such charges have been brought shall be informed in
10 writing of the charges previous to the meeting and shall have an
11 opportunity at the meeting to be heard in person or by counsel
12 and to present witnesses; and the person or persons bringing
13 the charges against him shall have the same opportunity.

14 In case the by-laws provide for election of directors by dis-
15 tricts with primary elections in each district, then the petition
16 for removal of a director must be signed by twenty per cent of
17 the members residing in the district from which he was elected.
18 The board of directors must call a special meeting of the mem-
19 bers residing in that district to consider the removal of the
20 directors; and by a vote of the majority of the members of
21 that district, the director in question shall be removed from
22 office.

Referendum.

Sec. 17. Upon demand of one-third of the entire board of 2 directors, made immediately and so recorded, at the same 3 meeting at which the original motion was passed, any matter of 4 policy that has been approved or passed by the board must be 5 referred to the entire membership or the stockholders for de- 6 cision at the next special or regular meeting; and a special 7 meeting may be called for the purpose.

Marketing Contract.

Sec. 18. The association and its members may take and exe- 2 cute marketing contracts, requiring the members to sell, for 3 any period of time, not over ten years, all or any specified part 4 of their agricultural products or specified commodities ex- 5 clusively to or through the association, or any facilities to be 6 created by the association. If they contract a sale to the asso- 7 ciation, it shall be conclusively held that title to the products 8 passes absolutely and unreservedly, except for recorded liens, 9 to the association upon delivery; or at any other specified time 10 if expressly and definitely agreed in the said contract. The 11 contract may provide, among other things, that the associa- 12 tion may sell or resell the products delivered by its members, 13 with or without taking title thereto; and pay over to its mem- 14 bers the re-sale price, after deducting all necessary selling, over- 15 head and other costs and expenses, including interest or divi- 16 dends on stock, not exceeding eight per cent per annum, and 17 reserves for retiring the stock, if any; and other proper re- 18 serves; or any other deductions.

Remedies for Breach of Contract

Sec. 19. (a) The by-laws or the marketing contract may 2 fix, as liquidated damages, specific sums to be paid by the mem- 3 bers or stockholders to the association upon the breach by him 4 of any provision of the marketing contract regarding the sale 5 or delivery or withholding of products; and may further pro- 6 vide that the member will pay all costs, premiums for bonds, 7 expenses and fees, in case any action in which it shall prevail, 8 brought upon the contract by the association; and any such pro- 9 visions shall be valid and enforceable in the courts of this state; 10 and such clauses providing for liquidated damages shall be en- 11 forceable as such and shall not be regarded as penalties.

12 (b) In the event of any such breach or threatened breach
13 of such marketing contract by a member, the association shall
14 be entitled to an injunction to prevent the further breach of the
15 contract and to a decree of specific performance thereof.
16 Pending the adjudication of such an action and upon filing a
17 verified complaint showing the breach or threatened breach,
18 and upon filing a sufficient bond, the association may be en-
19 titled to a temporary restraining order and preliminary injunc-
20 tion against the member.

21 (c) In any action upon such marketing agreement, it
22 shall be presumed as between the parties that the landowner or
23 landlord or lessor claiming therein so to be, is able to control the
24 delivery of products produced on his land by tenants or others,
25 whose tenancy or possession or work on such land or the terms of
26 whose tenancy or possession or labor thereon were created or
27 changed after execution by the landowner or landlord or lessor,
28 of such a marketing agreement; and in such actions, the fore-
29 going remedies for non-delivery or breach shall lie and be en-
30 forceable against such landowner, landlord or lessor.

*Purchasing Business of Other Associations, Persons, Firms or
Corporations—Payment—Stock Issued.*

Sec. 20. Whenever an association, organized hereunder with
2 preferred capital stock, shall purchase the stock or any prop-
3 erty, or any interest in any property of any person, firm or
4 corporation or association, it may discharge the obligations so
5 incurred, wholly or in part, by exchanging for the acquired in-
6 terest, shares of its preferred capital stock to an amount which
7 at par value would equal the fair market value of the stock or
8 interest so purchased, as determined by the eleven board of
9 directors. In that case the transfer to the association of the
10 stock or interest purchased shall be equivalent to payment in
11 cash for the shares of stock issued.

Annual Reports.

Sec. 21. Each association formed under this act shall pre-
2 pare and make out an annual report on forms to be furnished
3 by the dean of the college of agriculture at Morgantown, con-
4 taining the name of the association; its principal place of busi-
5 ness; and a general statement of its business operations during

6 the fiscal year, showing the amount of capital stock paid up
7 and the number of stockholders of a stock association or the
8 number of members and amount of membership fees received,
9 if a non-stock association; the total expenses of operations; the
10 amount of its indebtedness or liabilities, and its balance sheets.

Conflicting Laws Not to Apply.

Sec. 22. Any provisions of law which are in conflict with
2 this act shall be construed as not applying to the associa-
3 tion herein provided for.

4 Any exemptions whatsoever under any and all existing laws
5 applying to agricultural products in the possession or under
6 the control of the individual producer, shall apply similarly
7 and completely to such products delivered by its former mem-
8 bers, in the possession or under the control of the association.

Limitation of the Use of Term "Co-operative".

Sec. 23. No person, firm, corporation or association, here-
2 after organized or hereafter applying to do business in this
3 state as a farmers' marketing association for the sale of farm
4 products, shall be entitled to use the word "co-operative" as
5 part of its corporate or other business name or title, unless
6 it has complied with the provisions of this act.

Interest in Other Corporations or Associations.

Sec. 24. An association may organize, form, operate, own,
2 control, have interest in, own stock of, or be a member of any
3 other corporation or corporations, with or without capital stock,
4 and engaged in preserving, drying, processing, canning, pack-
5 ing, storing, handling, shipping, utilizing, manufacturing,
6 marketing or selling of the agricultural products handled by
7 the association, or the by-products thereof.

8 If such corporations are warehousing corporations, they may
9 issue legal warehouse receipts to the association against the
10 commodities delivered by it, or to any other person and such
11 legal warehouse receipts shall be considered as adequate col-
12 lateral to the extent of the usual and current value of the com-
13 modity represented thereby. In case such warehouse is
14 licensed or licensed and bonded under the laws of this or any
15 other state or the United States, its warehouse receipt delivered
16 to the association on commodities of the association or its mem-

17 bers, or delivered by the association or its members, shall not
18 be challenged or discriminated against because of ownership
19 or control, wholly or in part, by the association.

Contracts and Agreements With Other Associations.

Sec. 25. Any association may, upon resolution adopted by
2 its board of directors, enter into all necessary and proper con-
3 tracts and agreements and make all necessary and proper stipu-
4 lations, agreements and contracts and arrangements with any
5 other co-operative corporation, association or associations,
6 formed in this or in any other state, for the co-operative and
7 more economical carrying on of its business or any part or parts
8 thereof. Any two or more associations may, by agreement
9 between them, unite in employing and using or may sepa-
10 rately employ and use the same personnel, methods, means and
11 agencies for carrying on and conducting their respective
12 business.

*Rights and Remedies Apply to Similar Associations of
Other States.*

Sec. 26. Any corporation or association heretofore or here-
2 after organized under generally similar laws of another state
3 shall be allowed to carry on any proper activities, operations
4 and functions in this state upon compliance with the general
5 regulations applicable to foreign corporations desiring to do
6 business in this state and all contracts which could be made
7 by any association incorporated hereunder, made by or with
8 such associations shall be legal and valid and enforceable in
9 this state with all of the remedies set forth in this act.

*Associations Heretofore Organized May Adopt the Provisions of
This Act.*

Sec. 27. Any corporation or association, organized in this state
2 under previously existing statutes, may, by a majority vote of its
3 stockholders or members, be brought under the provisions of
4 this act by limiting its membership and adopting the other
5 restrictions as provided herein. It shall make out in duplicate
6 a statement signed and sworn to by its directors to the effect
7 that the corporation or association has, by a majority vote of
8 the stockholders or members, decided to accept the benefits and

9 be bound by the provisions of this act and has authorized all
10 changes accordingly. Articles of incorporation shall be filed as
11 required in section eight, except that they shall be signed by
12 the members of the then board of directors. The filing fee
13 shall be the same as for filing an amendment to articles of
14 incorporation.

15 (a) Where any association may be incorporated under this
16 act, all contracts heretofore made by or on behalf of same by
17 the promoters thereof in anticipation of such associations be
18 coming incorporated under the laws of this state, whether or not
19 such contracts be made by or in the name of some corporation or
20 ganized elsewhere, and when same would have been valid if en-
21 tered into subsequent to the passage of this act, are hereby
22 validated as if made after the passage of this act.

Misdemeanor to Spread False Reports About the Finances or the

Management of Co-operative Associations.

Sec. 28. Any person or persons or any corporation whose
2 officers maliciously and knowingly spreads false reports about
3 the finances or management or activity of any co-operative as-
4 sociation, shall be guilty of a misdemeanor and be subject to a
5 fine of not less than one hundred dollars and not more than one
6 thousand dollars for each such offense; and shall be liable to
7 the association aggrieved in a civil action for damages therefor.

*Warehousemen Liable for Damages for Encouraging or Permitting
Delivery of Products in Violation of Marketing Agreements.*

Sec. 29. Any person, firm or corporation conducting a ware-
2 house within this state who solicits or persuades or permits
3 any member of any association organized hereunder to breach
4 his marketing contract with the association by accepting or
5 receiving such member's products for sale or for auction or
6 for display for sale, contrary to the terms of any marketing
7 agreement of which said person or any member of the said firm
8 or any active officer or manager of the said corporation has
9 knowledge or notice, shall be liable to the association aggrieved
10 in a civil suit for damages therefor, courts of equity shall have
11 jurisdiction to enjoin further breaches of such contracts.

Associations Are Not in Restraint of Trade.

Sec. 30. No association organized hereunder and complying
2 with the terms hereof shall be deemed to be a conspiracy or a
3 combination in restraint of trade or an illegal monopoly; or
4 an attempt to lessen competition or to fix prices arbitrarily nor
5 shall the marketing contracts and agreements between the
6 association and its members or any agreements authorized in
7 this act be considered illegal as such or in unlawful restraint
8 of trade or as part of a conspiracy or combination to accom-
9 plish an improper or illegal purpose.

Constitutionality.

Sec. 31. If any section of this act shall be declared uncon-
2 stitutional for any reason, the remainder of this act shall not
3 be affected thereby.

Application of General Corporation Laws.

Sec. 32. The provisions of the general corporation laws of
2 this state and all powers and rights thereunder, shall apply
3 to the associations organized hereunder, except where such pro-
4 visions are in conflict with or inconsistent with the express
5 provision of this act.

CHAPTER 54**(House Bill No. 240—Mr. Paugh)**

AN ACT to amend and re-enact sections one hundred and one, one
hundred and three, one hundred and six and one hundred and
seven of chapter fifteen-d of Barnes' code, edition of one thou-
sand nine hundred and twenty-three, and to repeal section one
hundred and eight of said chapter.

[Passed April 26, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

SEC.
101. Tags and cards for retailers.
103. Duplicate registration.

SEC.
106. Offenses under act.
107. Rules and regulations by com-
missioner.

Be it enacted by the Legislature of West Virginia:

That section one hundred and eight of chapter fifteen-d of Barnes' code, edition of one thousand nine hundred and twenty-three is hereby repealed, and that sections one hundred and one, one hun-

dred and three, one hundred and six and one hundred and seven of said chapter are hereby amended and re-enacted so as to read as follows:

Section 101. Whenever any commercial feeding stuffs as
2 defined in section one is offered or exposed for sale in bulk or
3 otherwise stored, the manufacturer, importer, jobber, firm, as-
4 sociation, corporation or person keeping the same for sale shall
5 keep on hand cards upon which shall be printed the statement
6 required by the provisions of section two, and when such feed-
7 ing stuffs are sold at retail in bulk or in packages belonging to
8 the purchaser, the manufacturer, jobber, firm, association, cor-
9 poration or person shall furnish the purchaser, upon request,
10 with a card or cards upon which appears the statement required
11 by the provisions of section two.

Sec. 103. Whenever a manufacturer, importer, jobber, firm,
2 association, corporation or person manufacturing or selling a
3 brand of commercial feeding stuffs shall have filed the state-
4 ment required by section three, as required by section four of
5 this act, no other agent, importer, jobber, firm, association, cor-
6 poration or person shall be required to file such statement.

Sec. 106. Any manufacturer, importer, jobber, firm, associa-
2 tion, corporation or persons who shall sell, offer or expose for
3 sale, or distribute in this state, any commercial feeding stuffs
4 without having attached thereto or furnished therewith such
5 labels or tags, as required by this act, or who shall use the re-
6 quired labels or tags, or who shall impede, obstruct, hinder or
7 otherwise prevent or attempt to prevent said commissioner or
8 his authorized agent in the performance of his duty in connec-
9 tion with the provisions of this act, or who shall sell or expose
10 for sale or distribute in this state any commercial feeding stuffs
11 as defined in section one without complying with the require-
12 ments of the provisions of this act; or who shall sell, offer, or
13 expose for sale or distribute in this state any commercial feed-
14 ing stuffs which contains a smaller per centum of crude protein
15 or crude fat, or a larger per centum of crude fiber than is cer-
16 tified to be contained therein, or who shall fail to properly state
17 the specific name of each and every ingredient used in its manu-
18 facture, shall be deemed guilty of a violation of the provisions
19 of this act and upon conviction thereof shall be fined not more
20 than one hundred dollars for the first violation, and not less
21 than one hundred dollars for each subsequent violation.

Sec. 107. The commissioner of agriculture is hereby empowered to enforce the provisions of this act, and to prescribe and enforce such rules as he may deem necessary to carry into effect the full intent and meaning of this act.

CHAPTER 55

(House Bill No. 244—Mr. Farris)

AN ACT to amend and re-enact chapter twenty-four of the acts of the West Virginia legislature of one thousand nine hundred and seventeen, relating to the grading and packing of apples for sale.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. West Virginia Fancy; West Virginia Grade A; Grade B; Grade C; Orchard run grade; unclassified; minimum size; facings; color; solid red varieties; strip-

ed or partial red varieties; red checked or blushed varieties; yellow or green varieties; definitions of grade terms; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-four of the acts of one thousand nine hundred and seventeen be amended and re-enacted so as to read as follows:

Section 1. That the standard grades or classes for apples grown in West Virginia, when packed in closed packages shall be as follows:

West Virginia Fancy.

West Virginia Fancy shall consist of hand-picked apples of one variety which are well formed, uniform in size, firm, and mature, and which are free from decay, dirt, disease, bruises, insect, or mechanical injury, and other blemishes or defects, except those necessarily caused in proper packing. Each apple shall have the amount of color hereinafter specified for apples of its grade. In order to allow for proper variations incidental to commercial grading and handling, not more than ten per cent by weight of the apples in any container may be below the requirements of this grade.

West Virginia Grade A.

West Virginia Grade A shall consist of apples of one variety which are firm and mature, free from decay and practically free from dirt, disease, insect, or mechanical injury, and

19 other blemishes or defects, except those necessarily caused in
20 proper packing. Each apple shall have the proper amount of
21 color, hereinafter specified, for apples of its grade.

22 In order to allow for variations properly incident to com-
23 mercial grading and handling, not more than ten per cent by
24 weight of the apples in any container may be below the re-
25 quirements of this grade.

26 *West Virginia Grade B.*

27 West Virginia Grade B shall consist of apples of one
28 variety which are firm and mature, free from decay, worm
29 holes, and serious bruises, and which are not materially de-
30 formed, or materially discolored. In order to allow for va-
31 riations properly incident to commercial grading, and
32 handling, not more than ten per cent of the weight of the
33 apples in any container may be below the requirements of
34 this grade.

35 *West Virginia Grade C.*

36 West Virginia Grade C shall consist of apples which
37 do not meet the requirements of West Virginia
38 Grade B.

39 *Orchard Run Grade.*

40 West Virginia Orchard Run shall consist of apples of one
41 variety from which all apples not meeting the requirements
42 of West Virginia Grade B have been removed. No
43 lot from which apples meeting the requirements of West
44 Virginia Grade A or better have been removed shall be
45 designated as West Virginia Orchard Run. In order to allow
46 for variations incident to commercial grading and handling
47 not more than ten per cent by weight of the apples in any
48 container may be below the requirements of this grade.

49 *Unclassified.*

50 Any apples not represented as meeting the requirements of
51 the grades herein described shall be designated as "unclassi-
52 fied."

53 *Minimum Size.*

54 The minimum size of any of the apples in any container
55 shall be plainly labeled, stenciled, or otherwise marked on
56 the container. In order to allow for variations properly in-
57 cident to commercial grading and handling, not more than
58 five per cent of the apples in any container may be below the
59 minimum size specified.

60 *Facing.*

61 The apples forming the facing or exposed surface in any
62 container shall fairly represent the average of the apples in
63 the container; that is not more than one-half of the apples
64 in the container may be smaller than, or inferior to those in
65 such face or exposed surface.

66 *Color.*

67 In order that the requirements of the grade specified may
68 be met each apple shall have color to the extent of the per-
69 centage of its surface stated below for its variety.

70 **SOLID RED VARIETIES.**

71	<i>West Va. Fancy.</i>	<i>West Va. Grade A.</i>
72	65% Aiken Red	25%
73	65% Arkansas Black	25%
74	65% Baldwin	25%
75	65% Black Ben Davis	25%
76	65% Gano	25%
77	65% King David	25%
78	65% Red June	25%
79	65% Spitzenburg	25%
80	65% Winesap	25%
81	Other solid red varieties.....	25%

82 **STRIPED OR PARTIAL RED VARIETIES**

83	<i>West Va. Fancy.</i>	<i>West Va. Grade A.</i>
84	50% Alexander	25%
85	50% Arkansas	25%
86	50% Delicious	25%
87	50% Fameuse	25%
88	50% King	25%
89	50% Lawyer	25%
90	50% Jonathan	25%
91	50% McIntosh	25%
92	50% Stayman	25%
93	50% Wealthy	25%
94	50% Missouri Pippin	25%
95	<i>West Va. Fancy.</i>	<i>West Va. Grade A.</i>
96	50% Ben Davis	15%
97	50% Geniton	15%
98	50% Northern Spy	15%
99	50% Oldenburg	15%
100	50% Rome	15%

101	50%	Wagner	15%
102	50%	Willow Twig	15%
103	50%	York Imperial	15%
104	25%	Gravenstein	10%
105	25%	Jeffries	10%
106	25%	Twenty Ounce	10%
107	25%	Wolf River	10%

108 RED CHEEKED OR BLUSHED VARIETIES.

109	<i>West Va. Fancy.</i>		<i>West Va. Grade A.</i>
110	Blushed Cheek	Hyde King	Tinge of Color
111	"	" Maiden Blush	" " "
112	"	" Red Cheeked	" " "
113	"	" Pippin	" " "
114	"	" Winter Banana	" " "
115	"	" Other Red Cheeked	" " "
116	"	" or Blushed Varieties	" " "

117 YELLOW OR GREEN VARIETIES.

118	<i>West Va. Fancy.</i>		<i>West Va. Grade A.</i>
119	Rhode Island	Greening	Characteristic Color
120	Albemarle	Pippin	" "
121	Other Yellow or Green Varieties		" "

122 *Definitions of Grade Terms.*

123 The grade terms used in this act are hereby defined as
 124 follows: "Well formed" means having the shape character-
 125 istic of the variety. "Uniform in size" means that there
 126 shall not be more than one-half inch variation between the
 127 maximum and minimum diameters of the apples in any con-
 128 tainer. "Practically free" means that the appearance of the
 129 keeping quality of the fruit shall not be injured to any extent
 130 readily apparent in the process of grading or sorting. "Ma-
 131 terially deformed" means sufficiently deformed to cause a
 132 loss of twenty-five per cent or more by volume in paring.
 133 "Materially discolored" means having more than fifty per
 134 cent of the surface sufficiently discolored to injure the ap-
 135 pearance of the fruit. "Colored" means the color character-
 136 istic of the variety when mature. "Mature" means having
 136-a reached the stage of maturity which will insure proper com-
 137 pletion of the ripening process. "Minimum size" means the
 138 transverse diameter of the smallest fruit at right angles to
 139 a line running from the stem to the blossom end. Minimum
 140 size shall be stated in terms of whole or quarter inches, as two

141 inches, two and one-quarter inches, two and one-half inches,
142 and so on in accordance with the facts. The word "mini-
143 mum" may be abbreviated thus "min."

144 The marks and brands required by this act may be accom-
145 panied by any additional marks or brands desired, *provided*
146 such marks or brands are not inconsistent with the provisions
147 of this act. Apples packed and branded in accordance with
148 the provisions of the act of congress approved August third,
149 nineteen hundred and twelve, or any subsequent act of con-
150 gress, shall be exempt from the provisions of this act.

151 Every closed package containing apples grown and packed
152 in the state of West Virginia, which is sold, offered or exposed
153 for sale by any person shall bear upon the outside of one end
154 in plain letters and figures the name and address of the person
155 by whose authority the apples were packed and the package
156 marked with the true name of the variety, the grade or class
157 of the apples therein contained and the minimum size of the
158 fruit in the package.

159 If the true name of the variety be not known to the packer,
160 or to the person under whose authority the packing is done,
161 then such variety shall be marked "unknown". Every pack-
162 age of apples which is repacked shall bear the name and ad-
163 dress of the person under whose authority such repacking is
164 done, such name and address to be preceded by the words
165 "repacked by".

166 It shall be unlawful for any person within this state to sell,
167 offer, or expose for sale apples which are misbranded or adul-
168 terated within the meaning of this act.

169 For the purpose of this act apples shall be deemed to be
170 misbranded.

171 First, if the package shall fail to bear the statements re-
172 quired by this act.

173 Second, if the package shall be falsely branded or shall
174 bear any statement, design or device regarding such apples
175 which is false or misleading, or if the package bears a state-
176 ment, design or device indicating that the apples therein con-
177 tained are a given grade, and said apples when packed or
178 repacked do not conform to said grade.

179 For the purposes of this act apples shall be deemed to be
180 adulterated if their quality or grade when packed or repacked
181 does not conform to the marks upon the package.

182 Any person who misbrands or adulterates apples within the
183 meaning of this act, or who violates any of the provisions of
184 this act shall be guilty of a misdemeanor, and on conviction
185 thereof shall be fined not more than fifty dollars, for the first
186 offense, and not less than twenty-five nor more than two hun-
187 dred for each subsequent violation.

188 No person shall be prosecuted under the provisions of this
189 act when such person can establish satisfactory evidence to the
190 effect that he was not a party to the packing and grading of
191 such apples illegally packed or misbranded, and that he had
192 no knowledge that same were illegally packed or misbranded,
193 or when he can establish a guaranty, signed by the person
194 from whom he received such apples, to the effect that same
195 are not misbranded or adulterated within the meaning of this
196 act. Such guaranty, or satisfactory evidence to afford pro-
197 tection, shall contain the true name and address of the party
198 or parties from whom said apples were received, or who made
199 the sale or shipment of such apples to such person.

200 *Definitions.* The word person as used herein shall be con-
201 strued to include both singular and plural, individuals, cor-
202 porations, co-partnerships, companies, societies, and associa-
203 tions. The act, omission or failure of any officer, agent, serv-
204 ant, or employe acting in the scope of his employment shall
205 be deemed to be the act, omission or failure of his principal.
206 The words "closed package" shall mean a box, barrel, or
207 other package, the contents of which cannot be easily inspect-
208 ed when such package is closed.

209 This act shall not apply to apples actually transported to
210 storage within the state until the same are sold, offered or
211 exposed for sale, packed or transported for sale, nor shall the
212 provisions of this act as regards transportation apply to com-
213 mon carriers.

214 The enforcement of this act shall be vested in the state de-
215 partment of agriculture, and its officers, agents, and employes
216 are authorized and empowered to enter upon the lands of any
217 person within this state for the purpose of inspecting the
218 package of apples and securing evidence in relation to viola-
219 tions of this act, and the said department of agriculture shall
220 promulgate such rules and regulations as may be necessary
221 in construing and enforcing this act; *provided, however,* that
222 any such grades or classes for apples packed in closed pack-
223 ages which may hereafter be prescribed by any act of con-

224 gress may be established and promulgated by the state de-
 225 partment of agriculture in lieu of the grades and classes here-
 226 in provided.

227 All acts or parts of acts inconsistent herewith are hereby
 228 repealed.

CHAPTER 56

(House Bill No. 252—Mr. Smith of Berkeley)

AN ACT to amend chapter one hundred and fifty of the code of West Virginia, by adding thereto sections thirty and thirty-one, relating to the manufacture, sale and exposing for sale or exchange, of milk products.

[Passed April 26, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.
 30. Sale of milk, blended or com-
 pounded, prohibited; penalty,
 fine twenty-five to one hundred
 dollars, first offense; not to ex-
 ceed two hundred and fifty dol-
 lars for subsequent offense.
 31. Milk products, offered for sale,
 must conform to the following
 standards: (a) Milk defined;
 (b) pasturized milk; (c) skim
 milk; (d) buttermilk; (e) con-
 densed evaporated or concen-

trated milk; (f) sweetened con-
 densed, evaporated concentra-
 ted milk; (g) condensed, eva-
 porated, concentrated skimmed;
 (h) condensed, evaporated, con-
 centrated skimmed milk-sweet-
 ened; (i) dried milk; (j) dried
 skim milk; (k) cream, sweet
 cream; whipped cream; (l)
 butter; (m) cheese; (n) ice
 cream; inconsistent acts re-
 pealed.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and fifty of the code of West Virginia be amended by adding thereto sections thirty and thirty-one which sections shall read as follows:

Section 30. That it shall be unlawful for any person, firm or corporation by himself, herself, itself, or themselves, or by his, her, its, or their agents, servants, or employees to manufacture, offer or expose for sale or exchange or have in his possession with intent to sell, offer or expose for sale or exchange either in bulk or in containers, sealed or unsealed, under any name whatever any condensed, evaporated, concentrated, powdered, dried or dessicated milk, cream or skim milk to which has been added or with which has been blended or compounded any fats or oils other than milk fats producing what is known as filled milk.

Any person, firm or individual violating the provisions of this section shall be guilty of a misdemeanor and upon con-

14 viction thereof shall be fined not less than twenty-five (\$25.00)
15 dollars and not more than one hundred (\$100.00) dollars for
16 first offense and not less than one hundred (\$100.00) dollars
17 and not more than two hundred and fifty (\$250.00) dollars for
18 each subsequent offense.

Sec. 31. It shall be unlawful for any person, firm or cor-
2 poration by himself, herself, itself, or themselves, or by his,
3 her, its or their agents, servants or employees to manufacture,
4 offer or expose for sale or exchange or have in his possession
5 with intent to sell, offer or expose for sale or exchange any
6 milk or milk products that do not conform to the following
7 standards or definitions:

(a) *Milk* is the whole, fresh, clean lacteal secretion ob-
2 tained by the complete milking of one or more healthy cows,
3 properly fed and kept, excluding that obtained within fifteen
4 days before and five days after calving, or such longer period
5 as may be necessary to render the milk practically colostrum-
6 free, and shall contain not less than three (3) per cent of milk
7 fat and not less than eight and one-half (8½) per cent of
8 solids, not fat and eleven and one-half (11½) per cent total
9 solids.

10 (b) *Pasteurized Milk* is milk that has been subjected to a
11 temperature not lower than 145 degrees Fahrenheit for not less
12 than thirty (30) minutes. Unless it is bottled hot, it is prompt-
13 ly cooled to 50 degrees Fahrenheit, or lower.

14 (c) *Skim Milk* is milk from which a part or all of the
15 cream has been removed, and contains not less than nine (9)
16 per cent of milk solids.

17 (d) *Buttermilk* is the product that remains when fat is
18 removed from milk or cream, sweet or sour, in the process of
19 churning. It contains not less than eight (8) per cent of milk
20 solids not fat.

21 (e) *Condensed Milk, Evaporated Milk, Concentrated Milk,*
22 is the product resulting from the evaporation of a considera-
23 ble portion of the water from the whole, fresh, clean lacteal
24 secretion obtained by the complete milking of one or more
25 healthy cows, properly fed and kept, excluding that obtained
26 within fifteen days before and five days after calving, and con-
27 tains, all tolerances being allowed for, not less than twenty-five
28 and five-tenths (25.5) per cent of total solids and not less than
29 seven and eight-tenths (7.8) per cent of milk fat.

30 (f) *Sweetened Condensed Milk, Sweetened Evaporated*
31 *Milk, Sweetened Concentrated Milk,* is the product resulting

32 from the evaporation of a considerable portion of the water
33 from the whole, fresh, clean, lacteal secretion obtained by the
34 complete milking of one or more healthy cows, properly fed
35 and kept, excluding that obtained within fifteen days before
36 and five days after calving, to which sugar (*sucrose*) has been
37 added. It contains, all tolerances being allowed for, not
38 less than twenty-eight (28%) per cent of total milk solids
39 and not less than seven and eight-tenths (7.8) per cent of milk
40 fat.

41 (g) *Condensed Skimmed Milk, Evaporated Skimmed Milk,*
42 *Concentrated Skimmed Milk*, is the product resulting from the
43 evaporation of a considerable portion of the water from
44 skimmed milk, and contains, all tolerances being allowed for
45 not less than twenty (20) per cent of milk solids.

46 (h) *Sweetened Condensed Skimmed Milk, Sweetened*
47 *Evaporated Skimmed Milk, Sweetened Concentrated Skimmed*
48 *Milk*, is the product resulting from the evaporation of a con-
49 siderable portion of the water from skimmed milk to which
50 sugar (*sucrose*) has been added. It contains, all tolerances be-
51 ing allowed for, not less than twenty-eight (28) per cent of milk
52 solids.

53 (i) *Dried Milk* is the product resulting from the removal of
54 water from milk, and contains, all tolerances being allowed for,
55 not less than twenty-six (26) per cent of milk fat, and not
56 more than five (5) per cent of moisture.

57 (j) *Dried Skim Milk* is the product resulting from the re-
58 removal of water from skimmed milk, and contains, all toler-
59 ances being allowed for, not more than five (5) per cent of
60 moisture.

61 (k) *Cream, Sweet Cream*, is that portion of milk rich in
62 milk fat, which rises to the surface of milk on standing, or if
63 separated from it by centrifugal force. It is fresh, clean. It
64 contains not less than eighteen (18) per cent of milk fat.

65 *Whipping Cream* is cream which contains not less than
66 thirty (30) per cent of milk fat.

67 (l) *Butter* is the clean, non-rancid product made by gather-
68 ing in any manner the fat of fresh or ripened milk or cream
69 into a mass, which also contains a small portion of the other
70 milk constituents, with or without salt, and contains not less
71 than eighty (80) per cent of milk fat and not more than sixteen
72 (16) per cent moisture. The addition of vegetable butter color-
73 ing is permitted.

74 (m) *Cheese* is the sound, solid, and ripened product made
75 from milk or cream by coagulating the casein thereof with
76 rennett of lactic acid, with or without the addition of ripening
77 ferments and seasoning, and contains, in the water-free sub-
78 stance, not less than fifty (50) per cent of milk fat. The addi-
79 tion of harmless coloring matter is permitted.

80 (n) Ice cream is a frozen substance made from pure whole-
81 some milk products sweetened with sugar and may contain not
82 to exceed one half of one percent of gelatine, vegetable gum or
83 other wholesome stabilizer.

84 When wholesome and harmless flavoring extracts are used,
85 ice cream shall contain not less than eight percent of milk fats
86 and ten percent of milk solids not fats. When eggs, fruits,
87 nuts, chocolate or cake are used, such reduction in the per-
88 centage of milk fat and milk solids not fat, shall be allowed
89 as may be caused by the addition of such ingredients.

90 Any person, firm, or corporation violating the provisions of
91 this section shall be guilty of a misdemeanor and on conviction
92 thereof shall be fined not less than twenty-five dollars and not
93 more than fifty dollars for the first offense and not less than
94 fifty dollars and not more than two hundred dollars for each
95 subsequent offense.

96 All acts or parts of acts inconsistent herewith are hereby
97 repealed.

CHAPTER 57

(House Bill No. 236—Mr. Hunter)

AN ACT prohibiting the use of vehicles in aid of prostitution, and
providing penalties for the violation thereof.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the
Governor May 1, 1923]

SEC.
1. Vehicles in aid of prostitution;
penalty; justices to try cases.

Be it enacted by the Legislature of West Virginia:

Section 1. That any owner, lessee, operator, or person in
2 charge or control of any taxicab, jitney bus, or other vehicle
3 who shall knowingly use the same or knowingly permit it to be
4 used in any manner as a means or aid in promoting prostitu-

tion or illicit sexual intercourse, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not to exceed thirty days, or by both such fine and imprisonment in the discretion of the court. Justices of the peace shall have jurisdiction to try and determine cases arising under this section.

CHAPTER 58

(House Bill No. 260—Mr. Oldham)

AN ACT to amend and re-enact sections nine, eighteen, twenty-seven, thirty-one, thirty-three and fifty-six of chapter ten of the acts of one thousand nine hundred and thirteen, as amended and re-enacted by chapter nine of the acts of one thousand nine hundred and fifteen, chapter one of the acts of the extraordinary session of one thousand nine hundred and fifteen, and chapter one thirty-one of the acts of one thousand nine hundred and nineteen, and to add to said chapter section thirty-eight, relating to a workmen's compensation law.

[Passed April 26, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.	SEC.
9. "Employees" defined; act not applicable to certain employers; premiums, how paid; "regularly employing" defined; foreign corporations eligible to subscribe.	centage of total disability; (e) same; (f) permanent disability.
18. Commissioner authorized to classify according to hazard; (a) shall keep account of all monies; (b) shall fix lowest rates possible; ten percent set aside to create surplus.	33. In case of death, within one year, disability continuous; (a) disbursements limited by sections twenty-seven and twenty-nine; (b) compensation in case deceased is under twenty-one and unmarried; (c) same, where partially dependent father or mother; (d) dependent widow shall receive not to exceed thirty dollars monthly and five dollars for each child under sixteen; (e) dependents other than widow, widower or child; (f) dependent person other than widow, widower or child; (g) "dependent" defined.
27. Disbursements of funds; (a) surgical and hospital not exceed three hundred dollars; (b) payment may be made to person other than injured employee; (c) not entitled to medical treatment in certain cases.	38. Commissioner authorized to expend more than six hundred dollars for medical, surgical and hospital in certain cases.
31. Schedule for compensation; (a) temporary disability; (b) limitation on paragraph (a); (c) determination of percentage of disability; (d) same, of per-	56. Act effect from July first; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

- That sections nine, eighteen, twenty-seven, thirty-one, thirty-three and fifty-six of chapter ten of the acts of one thousand nine hundred and thirteen, as amended and re-enacted by chapter nine

of the acts of one thousand nine hundred and fifteen, chapter one of the acts of the extraordinary session of one thousand nine hundred and fifteen, and chapter one hundred thirty-one of the acts of one thousand nine hundred and nineteen, be amended and re-enacted, and that section thirty-eight be added thereto, to read as follows:

Section 9. All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry or business in this state, county and municipal corporations, the state of West Virginia, and all governmental agencies or departments created by it, are employers within the meaning of this act, and 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 industry, business or work in which they are engaged, and check weighmen as provided for in chapter twenty, acts of one thousand nine hundred and eleven, are employees within the meaning of this act and subject to its provisions; *provided*, that the act shall not apply to employers of employees in domestic or agricultural service, persons prohibited by law from being employed, traveling salesmen, to employees of any employer while employed without the state; nor shall a member of a firm of employers, or any officer of an association, or of a corporation employer, including managers, superintendents, assistant managers and assistant superintendents, any elective official of the state, county or municipal corporation be deemed an employee within the meaning of this act.

The premiums and all expenses in connection with the election of the governmental agencies and departments of the state of West Virginia shall be paid out of the state treasury out of the appropriations made for such agencies and departments, in the same manner as other disbursements are made by such agencies and departments.

Municipal corporations shall provide for the funds to pay their prescribed premiums into the fund, and said premiums and premiums of state agencies and departments shall be paid into the fund in the same manner as herein provided for other employers subject to this act.

Any employer whose employment in this state is to be for a definite or limited period, which could not be considered "regularly employing" within the meaning of this act, may elect to

36 pay into the workmen's compensation fund the premiums
37 herein provided for, and at the time of making application to
38 the commissioner, such employer shall furnish statement under
39 oath showing the probable length of time the employment will
40 continue in this state, the character of the work, an estimate
41 of the monthly payroll, and any other information which may
42 be required by the commissioner. At the time of making ap-
43 plication such employer shall deposit with the state compen-
44 sation commission to the credit of the workmen's compensa-
45 tion fund the amount required by section twenty-four of this
46 act, which amount shall be returned to such employer if his
47 application be rejected by the commissioner. Upon notice to
48 such employer of the acceptance of his application by the com-
49 missioner, he shall be an employer within the meaning of this
50 act, and subject to all of its provisions.

51 Any foreign corporation employer electing to comply with
52 the provisions of this act and to receive the benefits hereunder,
53 shall at the time of making application to the commissioner, in
54 addition to the other requirements of this act, furnish such
55 commissioner with a certificate from the secretary of state
56 showing that it has complied with all the requirements neces-
57 sary to enable it to legally do business in this state, and no ap-
58 plication of such foreign corporation employer shall be ac-
59 cepted by the commissioner until such certificate is filed.

60 For the purpose of this act a mine shall be adjudged within
61 this state when the main opening, drift, shaft or slope is lo-
62 cated wholly within this state.

63 Any employee, within the meaning of this act, whose em-
64 ployment necessitates his temporary absence from this state in
65 connection with such employment and such absence is directly
66 incidental to carrying on an industry in this state who shall
67 have received injury during such absence in the course of and
68 resulting from his employment, shall not be denied the right
69 to participate in the workmen's compensation fund.

Sec. 18. The commissioner shall distribute into groups, or
2 schedules, the industries subject to this act, in accordance with
3 the nature of the business and the degree of hazard incident
4 thereto. And the commissioner shall have power, in like man-
5 ner, to re-classify into groups, or schedules, at any time, said
6 industries, and to create additional groups or schedules.

7 (a) The commissioner shall keep an accurate account of all
8 money or moneys paid or credited to the compensation fund,
9 and of the liability incurred and disbursements made against
10 same; and an accurate account of all money or moneys re-
11 ceived from each individual subscriber, and of the liability
12 incurred and disbursements made on account of injuries and
13 death of the employees of each subscriber; and of the receipts
14 and incurred liability of each schedule and class.

15 In fatal cases and permanent disability cases exceeding
16 eighty-five per centum disability, the amount charged against
17 the employer's account shall be such sum as is estimated to be
18 the average cost of such cases to the fund; *providing*, the com-
19 missioner decides that the injury or injuries causing death or
20 permanent disability was received in the course of and result-
21 ing from the employee's employment.

22 (b) It shall be the duty of the commissioner to fix and main-
23 tain the lowest possible rates of premiums consistent with the
24 maintenance of a solvent workmen's compensation fund and
25 the creation and maintenance of a reasonable surplus in each
26 schedule after providing for the payment to maturity of all
27 liability incurred by reason of injury or death to employees
28 entitled to benefits under the provisions of this act. A read-
29 justment of rates shall be made yearly on the first day of Oc-
30 tober, or at any time same may become necessary.

31 The commissioner may fix a rate of premium applicable
32 alike to all subscribers forming a schedule or class and such
33 rates shall be determined from the record of such schedule or
34 class shown upon the books of the commissioner; *provided*,
35 that if any schedule has a sufficient number of employers with
36 considerable difference in their degrees of hazard, the commis-
37 sioner may fix a rate for each subscriber of such schedule, such
38 rate to be based upon the subscriber's record on the books of
39 the commissioner for the twelve months last ending June
40 thirtieth of the year in which the rate is to become effective;
41 and the liability part of such record shall include such cases
42 as have been acted upon by the commissioner during said
43 twelve months' period, irrespective of the date the injury was
44 received; and any subscriber, in a schedule so rated, whose
45 record for said twelve months' period cannot be obtained, shall
46 be given a rate based upon his record for any part of said
47 period or such rate as may be deemed just and equitable by the

48 commissioner; and the commissioner shall have authority to fix
49 a reasonable minimum and maximum for any schedule to which
50 this individual method of rating is applied, and to add to the
51 rate determined from the subscriber's record such amount as
52 may be necessary to liquidate any deficit in the schedule or to
53 create a reasonable surplus.

54 It shall be the duty of the commissioner whenever he changes
55 any rate to notify every employer affected thereby of that fact
56 and of the new rate and when the same takes effect. It shall
57 also be his duty to furnish to each employer yearly, or oftener
58 if requested by the employer, a statement giving the name of
59 each of his employees who were paid for injury and the amount
60 so paid during the period covered by the statement.

61 Ten per centum of all that shall hereafter be paid into the
62 workmen's compensation fund shall be set aside for the cre-
63 ation of a surplus fund until such surplus shall amount to the
64 sum of five hundred thousand dollars, after which time the
65 sum of five per centum of all the money paid into the said fund
66 shall be credited to such surplus fund, until such time as in
67 the judgment of the commissioner, such surplus fund shall be
68 sufficiently large to cover the catastrophe hazard and all losses
69 not otherwise specifically provided for in this act.

Sec. 27. The commissioner shall disburse and pay from the
2 fund for such personal injuries to such employees as may be
3 entitled thereto hereunder as follows:

4 (a) Such sums for medical, surgical and hospital treat-
5 ment as may in the opinion of the commissioner, be reason-
6 ably required, not, however, in any case to exceed the sum of
7 three hundred dollars.

8 (b) Payment for such medical, surgical, or hospital treat-
9 ment authorized under paragraph (a) hereof may be made to
10 the injured employee, or to the person or persons who have fur-
11 nished such service, or who have advanced payment for same,
12 as the commissioner may deem proper.

13 (c) Notwithstanding anything hereinbefore contained, no
14 payment shall be made out of the workmen's compensation
15 fund for medical, surgical or hospital treatment for an in-
16 jured employee, if said employee be entitled under contract con-
17 nected with his employment, or by reason of a subscription
18 list to medical, surgical or hospital treatment without further
19 charge to him.

Sec. 31. Where compensation is due an employee under the provisions of this act, such compensation shall be as provided in the following schedule:

(a) If the injury causes temporary total disability, the employee shall receive during the continuance thereof sixty-six and two-thirds per centum of his average weekly earnings, not to exceed a maximum of sixteen dollars per week nor to be less than a minimum of five dollars per week.

(b) Paragraph (a) of this sub-division shall be limited as follows: Aggregate award for a single injury causing temporary disability shall be for a period not exceeding fifty-two weeks; *provided*, that in case in injured employee, by reason of having an un-united fracture, or having undergone a surgical operation to correct a vicious union following a fracture, or for the repair of an un-united fracture, or having suffered an injury to the spine or pelvic bones which is of a temporary nature, or for an ankylose joint, is disabled for a longer period than fifty-two weeks, the period which compensation shall be paid may be, but shall not exceed seventy-eight weeks.

(c) If the injury causes permanent disability, the percentage of disability to total disability shall be determined and the award computed and allowed as follows:

For a two per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of eight weeks;

For a five per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of twenty weeks;

For a ten per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of forty weeks;

For a fifteen per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of sixty weeks;

For a twenty per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of eighty weeks;

For a thirty per centum disability, sixty-six and two-thirds per centum of the average weekly earnings for a period of one hundred and twenty weeks;

42 For a forty per centum disability, sixty-six and two-thirds
43 per centum of the average weekly earnings for a period of one
44 hundred and sixty weeks;

45 For a fifty per centum disability, sixty-six and two-thirds
46 per centum of the average weekly earnings for a period of
47 two hundred weeks;

48 For a sixty per centum disability, sixty-six and two-thirds
49 per centum of the average weekly earnings for a period of
50 two hundred and forty weeks;

51 For a seventy per centum disability, sixty-six and two-thirds
52 per centum of the average weekly earnings for a period of two
53 hundred and eighty weeks;

54 For an eighty per centum disability, sixty-six and two-
55 thirds per centum of the average weekly earnings for a period
56 of three hundred and twenty weeks;

57 For an eighty-five per centum disability, sixty-six and two-
58 thirds per centum of the average weekly earnings for a period
59 of three hundred and forty weeks;

60 For a disability from eighty-five to one hundred per
61 centum, sixty-six and two-thirds per centum of the average
62 weekly earnings during the remainder of life.

63 Awards for permanent disability of from two per centum
64 to eighty-five per centum shall be computed on the basis of
65 four weeks' compensation for each per centum of disability
66 determined.

67 (d) If the injury results in the total loss by severance
68 of any of the members named in this paragraph, the percent-
69 age of disability shall be determined in accordance with the
70 following table, and award made as provided in paragraph
71 (c) of this section:

72 The loss of a great toe shall be considered a ten per centum
73 disability.

74 The loss of a great toe (one phalange) shall be considered
75 a five per centum disability.

76 The loss of other toes shall be considered a four per centum
77 disability.

78 The loss of other toes, (one phalange) shall be considered
79 a two per centum disability.

80 The loss of all toes shall be considered a twenty-five per
81 centum disability.

- 82 The loss of forepart of foot shall be considered a thirty
83 per centum disability.
- 84 The loss of a foot shall be considered a thirty-five per
85 centum disability.
- 86 The loss of leg shall be considered a forty-five per centum
87 disability.
- 88 The loss of thigh shall be considered a fifty per centum
89 disability.
- 90 The loss of thigh at hip joint shall be considered a sixty
91 per centum disability.
- 92 The loss of little or fourth finger (one phalange) shall be
93 considered a three per centum disability.
- 94 The loss of little or fourth finger shall be considered a five
95 per centum disability.
- 96 The loss of ring or third finger (one phalange) shall be con-
97 sidered a three per centum disability.
- 98 The loss of ring or third finger shall be considered a five
99 per centum disability.
- 100 The loss of middle or second finger (one phalange) shall be
101 considered a three per centum disability.
- 102 The loss of middle or second finger shall be considered a
103 seven per centum disability.
- 104 The loss of index or first finger (one phalange) shall be
105 considered a six per centum disability.
- 106 The loss of index or first finger shall be considered a ten
107 per centum disability.
- 108 The loss of thumb (one phalange) shall be considered a
109 twelve per centum disability.
- 110 The loss of thumb shall be considered a twenty per centum
111 disability.
- 112 The loss of thumb and index finger shall be considered a
113 thirty-two per centum disability.
- 114 The loss of index and middle finger shall be considered a
115 twenty per centum disability.
- 116 The loss of middle and ring finger shall be considered a
117 fifteen per centum disability.
- 118 The loss of ring and little finger shall be considered a ten
119 per centum disability.
- 120 The loss of thumb, index and middle finger shall be con-
121 sidered a forty per centum disability.

122 The loss of index, middle and ring finger shall be consid-
123 ered a thirty per centum disability.

124 The loss of middle, ring and little finger shall be consid-
125 ered a twenty per centum disability.

126 The loss of four fingers shall be considered a thirty-two
127 per centum disability.

128 The loss of hand shall be considered a fifty per centum
129 disability.

130 The loss of forearm shall be considered a fifty-five per
131 centum disability.

132 The loss of arm shall be considered a sixty per centum dis-
133 ability.

134 (e) The total loss of one eye, or the total and irrecover-
135 able loss of the sight thereof shall be considered a thirty-three
136 per centum disability, and the injured employee shall be en-
137 titled to compensation for a period of one hundred and thirty-
138 two weeks.

139 For the partial loss of vision in one, or both eyes, the per-
140 centage of disability shall be determined by the commissioner,
141 using as a basis the total loss of one eye.

142 (f) The award for permanent disabilities intermediate to
143 those fixed by the foregoing schedule and permanent disabil-
144 ity or from two per centum to eighty-five per centum shall be
145 in the same proportion and shall be computed and allowed
146 by the commissioner.

147 (g) The percentage of all permanent disabilities other
148 than those enumerated in paragraphs *c*, *d*, *e* and *f*, of this sec-
149 tion shall be determined by the commissioner, using as a basis
150 the loss of an arm at or above the elbow, and award made in
151 accordance with the schedule in paragraph *c*.

152 (h) Compensation payable under any paragraph of this
153 section shall be limited as follows: Not to exceed a maximum
154 of sixteen dollars per week, nor to be less than a minimum of
155 five dollars per week.

156 (i) Where an injury results in temporary total disabil-
157 ity for which compensation is awarded under paragraph (a)
158 of this section, and such injury is later determined a per-
159 manent partial disability under paragraph (c), the amount
160 of compensation so paid shall be considered as payment of the
161 compensation payable for such injury in accordance with the
162 schedule in paragraph (c). Compensation under this sec-

163 tion shall be payable only to the injured employee and the
164 right thereto shall not vest in his or her estate; except that
165 such compensation as may have accrued to the date of his or
166 her death, shall be paid to the dependents of such injured
167 employee, if there be such dependents at the time of death.

168 (j) The following permanent disabilities shall be con-
169 elusively presumed to be total in character:

170 Loss of both eyes or the sight thereof;

171 Loss of both hands or the use thereof;

172 An injury resulting in practically total paralysis.

173 In all other cases permanent disability shall be determined
174 by the commissioner in accordance with the facts in the case,
175 and award made in accordance with the schedule in para-
176 graph (c).

Sec. 33. In case the personal injury causes death within the
2 period of one year from the date of original injury and disa-
3 bility is continuous from date of such injury until date of
4 death the benefits shall be in the amounts, and to the persons,
5 as follows:

6 (a) If there be no dependents, the disbursements shall be
7 limited to the expense provided for in sections twenty-seven
8 and twenty-nine of this act.

9 (b) If the deceased employee be under the age of twenty-
10 one years and unmarried and leave a wholly dependent father
11 or mother, the father, or if there be no father, the mother shall
12 be entitled to a payment of sixty-six and two-thirds per centum
13 of the average weekly wages of the deceased employee, not to
14 exceed a maximum of seven dollars per week, to continue for
15 such period of six years after the date of death as the commis-
16 sioner in the case may determine; *provided, however*, that in
17 ease the deceased employee be under the age of sixteen years
18 at the time of death, payment shall continue until such em-
19 ployee would have been twenty-one years of age; and *provided*,
20 *further*, payment of compensation awarded under this sub-
21 section to a dependent father shall be continued and paid to
22 his surviving widow, mother of the deceased employee, to con-
23 tinue as per original award to father.

24 Compensation in either case to cease upon the death of the
25 dependent.

26 (c) If the deceased employee be under the age of twenty-
27 one and unmarried and leave a partially dependent father or

28 mother, the father, or if there be no father, the mother shall
29 be entitled to a payment of sixty-six and two-thirds per centum
30 of the average weekly wages, not to exceed a maximum of seven
31 dollars per week, to continue until the employee would have
32 been twenty-one years of age.

33 (d) If the deceased employee leaves a dependent widow or
34 invalid widower, the payment shall be thirty dollars per month
35 until death or remarriage of such widow or widower, and in
36 addition five dollars per month for each child under sixteen
37 years of age, to be paid until such child reaches such age;
38 *provided*, if such widow or invalid widower shall remarry
39 within two years from date of the death of such employee, such
40 widow or widower shall be paid at the time of remarriage
41 twenty per centum of the amount that would be due for the
42 period remaining between the date of such remarriage and the
43 end of ten years from the date of death of said employee; *pro-*
44 *vided, further*, that if upon investigation it shall be ascertained
45 that said widow or widower is living with a man or woman,
46 as the case may be, as man and wife and not married, or the
47 widow living a life of prostitution, the commissioner may stop
48 the payment of the benefits herein provided to said widow or
49 widower.

50 If the deceased employee be a widow or widower and leave
51 a child or children under the age of sixteen years the payment
52 shall be ten dollars per month to each child until he or she
53 reaches the age of sixteen years.

54 In all awards of compensation to children, the award shall
55 be until they reach the age of sixteen years or their death prior
56 thereto.

57 (e) If the deceased employee be an adult and there be no
58 dependent widow or widower, or child under sixteen years of
59 age, but there are wholly dependent persons at the time of
60 death, the payment shall be fifty per centum of the average
61 monthly support actually received from the employee during the
62 preceding twelve months, to continue for the remainder of the
63 period between the date of death and six years after the date
64 of injury, and shall not amount to more than a maximum of
65 twenty dollars per month.

66 (f) If the deceased employee be an adult and there be no
67 dependent widow, widower or child under sixteen years of age,
68 or wholly dependent person, but there are partly dependent

69 persons at the time of death, the payment shall be fifty per
70 centum of the average monthly support actually received from
71 employe during the preceding twelve months, and to continue
72 for such portion of the period of six years after the date of
73 death as the commissioner in the case may determine, and not
74 to amount to more than a maximum of twenty dollars per
75 month.

76 Compensation under sub-sections (e) and (f) hereof shall
77 cease upon the death of the dependent, and the right thereto
78 shall not vest in his or her estate.

79 (g) Dependent, as used in this act, means a widow, invalid
80 widower, child under sixteen years of age, invalid child over
81 such age, or a posthumous child, who, at the time of the injury
82 causing death, is dependent in whole or part for his or her
83 support upon the earnings of the employe; also, the following
84 persons who are and continue to be residents of the United
85 States or its territorial possessions: step-child under sixteen
86 years of age, child under sixteen years of age legally adopted
87 prior to the injury causing death; father, mother, grandfather
88 or grandmother, who, at the time of the injury causing death,
89 is dependent in whole or in part for his or her support upon
90 the earnings of the employe; an invalid brother or sister wholly
91 dependent for his or her support upon the earnings of the
92 employe at the time of the injury causing death.

Sec. 38. The commissioner shall have authority in certain
2 cases where an employe has sustained a permanent disability,
3 and such fact having been so determined by the commissioner,
4 and in his opinion the per centum of said permanent disability
5 can be materially reduced or made negligible by medical, sur-
6 gical or hospital treatment, expend an amount not to exceed
7 the sum of six hundred dollars for such medical, surgical or
8 hospital treatment, regardless of any other provision in this
9 act providing for the payment of medical, surgical or hospital
10 treatment. No payment shall be made for such medical, hos-
11 pital or surgical treatment provided for in this section unless
12 such treatment has been duly authorized by the commissioner
13 prior to the rendering of such treatment.

14 All acts and parts of acts in conflict herewith are hereby
15 repealed.

Sec. 56. This act shall be in effect from and after the first 2 day of July, one thousand nine hundred and twenty-three, 3 and all other acts and parts of acts in conflict with this act 4 are hereby repealed.

CHAPTER 59

(House Bill No. 376—Mr. Aleshire)

AN ACT to amend and re-enact chapter sixteen of Barnes' code of one thousand nine hundred and eighteen, and to repeal certain sections thereof, relating to public printing, binding, paper and stationery.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. State board of control ex officio superintendent of public printing.
2. Contracts for printing, binding, paper and stationery. Let the lowest competitive bidder. Letting of contract to be published in four Newspapers. Specifications to be mailed to printing establishments and contractors.
3. Printing biennial reports; limit number of copies. Subject to approval of Governor. Money for public printing to be spent for that purpose and none other.

SEC.

4. Superintendent to have charge all printing paper and stationery; to use when needed.
5. All printing, binding, printing paper and stationery for State Superintendent of Schools, paid out of general school fund.
6. Superintendent, custodian of printed reports of Supreme Court. When to sell and price fixed.
7. Punishment for false swearing to accounts, officer failing to perform his duty how punished.
8. Disbursement of funds on requisition on Auditor.
9. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter sixteen of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 1. The state board of control shall be ex officio superintendent of public printing.

Sec. 2. The superintendent of public printing shall enter into 2 contracts for the execution of the state printing and binding and 3 for supplying the state with printing, paper and stationery. 4 All contracts for printing and binding and for printing paper 5 and stationery as needed shall be let on competitive bids from 6 two or more printing establishments or printing paper and sta- 7 tionery supply houses, and shall be awarded to the lowest re- 8 sponsible bidder who shall be required to give bond in the full 9 sum of the contract, and in no case shall a general contract be 10 let except after notice of such letting of contract has been given

11 by publication in four newspapers of general circulation pub-
12 lished within this state and specifications have been mailed to all
13 printing establishments and contractors whose names have been
14 filed with said superintendent of public printing requesting the
15 right to bid upon any printing, binding and printing paper and
16 stationery.

Sec. 3. In order to conserve the printing fund and eliminate
2 the unnecessary publication of biennial reports, bulletins and
3 other publications, the superintendent of public printing is
4 hereby given authority to limit the number of copies of such
5 reports, bulletins and other publications ordered to be printed by
6 each department, subject, however, to the final approval of the
7 governor. *Provided*, that no report of the proceedings of any
8 private organization or association shall be paid for out of the
9 appropriation for printing, binding and stationery.

Sec. 4. All printing paper and stationery must be delivered
2 to the superintendent of public printing, who shall have charge
3 of the same, and issue it as needed.

Sec. 5. All printing, binding, printing paper and stationery
2 for the state superintendent of free schools shall be paid for
3 out of the general school fund. No printing, binding, or print-
4 ing paper or stationery for the following named boards, officers
5 or institutions shall be paid for out of the appropriation for
6 public printing, public binding, or for supplying paper or sta-
7 tionery, but shall be paid for out of the appropriations therefor,
8 or out of the expense fund or current general expense fund
9 thereof, namely: the public service commission, the state road
10 commission, the workmen's compensation department, the game
11 and fish commission, the board of dental examiners, state vac-
12 cine agents, commissioners of pharmacy, state board of examin-
13 ers, state board of embalmers, Welch Hospital No. 1, McKendree
14 Hospital No. 2, Fairmont Hospital No. 3, state fire marshal,
15 normal schools, schools for the deaf and blind, the university
16 and all its branches, including the experiment station, Hunt-
17 ington, Weston and Spencer state hospitals, industrial school
18 for boys, West Virginia Collegiate institute, industrial home
19 for girls, the geological survey, Berkeley Springs board, state
20 colored hospital for insane, state tuberculosis sanitarium, state
21 colored tuberculosis sanitarium, children's homes, the Potomac
22 state school, the New River state school, Bluefield colored insti-
23 tute, and all private schools and hospitals receiving state ap-
24 propriations and such other boards, commissions, bureaus and

25 departments that may be created by this or succeeding legisla-
26 tures whose printing, binding and stationery supplies is ex-
27 pressly provided for in the act creating it.

Sec. 6. The superintendent of public printing shall be cus-
2 todian of the printed reports of the supreme court of West Vir-
3 ginia and of such session laws remaining after the distribution
4 provided by law is made, and shall sell such reports and session
5 laws at a price to be fixed by the superintendent of public print-
6 ing, with the approval of the governor, but in no case shall the
7 price so fixed be less than the actual cost of the publication to
8 the state.

Sec. 7. Any person, firm or corporation who shall falsely
2 swear to the correctness of any bill or account shall be guilty of
3 perjury and punished accordingly. Any officer who shall wil-
4 fully or fraudulently falsely certify any such bill or account
5 for payment, or wilfully make any other false certificate in re-
6 lation thereto, shall be guilty of perjury, and shall be punished
7 accordingly, and shall moreover be fined not exceeding five hun-
8 dred dollars for each offense. Any officer failing to perform
9 any duty required by this act, shall be guilty of a misdemeanor,
10 and upon conviction thereof, shall be fined not less than twenty
11 nor more than five hundred dollars for each offense.

Sec. 8. All appropriations made for printing, binding and
2 stationery shall be disbursed on requisition drawn on the auditor
3 by the superintendent of public printing. Forms for disburse-
4 ments and records of account shall be such as are prescribed by
5 the state tax commissioner.

Sec. 9. Sections nine, ten, eleven, twelve, thirteen, fourteen,
2 fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-
3 one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-
4 six, twenty-seven and twenty-eight of chapter sixteen of
5 Barnes' code of one thousand nine hundred and eighteen and
6 all acts and parts of acts inconsistent with the provisions of
7 this act are hereby repealed.

CHAPTER 60

House Bill No. 428—Mr. Read)

AN ACT to create county child welfare boards at the option of the
counties.

[Passed April 13, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

Sec.	Sec.
1. County child welfare board created; to consist of three members; qualifications; term, two years after appointment of first two for one and two years; meetings held each month; vacancies filled by judge of Juvenile Court.	4. Court shall provide office for board; Secretary's duties.
2. Duties; shall appoint secretary; salary.	5. Provision for counties where no board is appointed.
3. Board appointed under order of Court.	6. Other duties of Secretaries.
	7. Who shall report to County Welfare Board.
	8. Compensation; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created for each of the counties of the state a county child welfare board which shall be a body corporate and as such may contract and be contracted with, sue and be sued, plead and be impleaded, and have a common seal. The board shall consist of three members, of whom the president of the county court shall be ex officio member, and the other two members shall be residents of the county and shall be appointed by the judge of the court having juvenile jurisdiction in the county, and all members shall serve without pay. At least one member of said board shall be a woman.

The members first appointed shall hold office for one and two years, the term of each being designated at the time of his or her appointment. All subsequent appointments shall be for the term of two years. The board shall meet as soon as convenient to organize. Subsequent regular meetings of the board shall be held monthly at such time and place as the board may designate. Any vacancy on the board shall be filled by the judge of the juvenile court presiding in the county where such vacancy occurs.

Sec. 2. The duties of the board shall be to advise and cooperate with and assist the state board of children's guardians in its work in the county and to make such visitations and reports as the state board of children's guardians may request; to act in a general advisory capacity to the county and municipal authorities in dealing with questions of dependency and delinquency, distribution of poor funds and social conditions generally. The county board may appoint a secretary subject to the approval of the state board of children's guardians which welfare secretary shall be secretary of the board and receive such salary as the board shall determine with the approval of the county court. The salary of the secretary shall be paid not more than one half by the state board of children's

14 guardians and the remainder by the county. Said secretary
15 may and when deemed advisable by said county court should
16 be the county probation officer.

Sec. 3. A board shall not be appointed in any county un-
2 less the county court of the county shall, by order, entered on
3 record, direct the same, fixing in said order the time when the
4 same shall become effective; *provided, however*, that said order
5 shall take effect not more than sixty days from the date of its
6 entry by the county court.

Sec. 4. The county court shall provide office quarters, equip-
2 ment and supplies for the board.

3 The secretary of the board shall fully investigate all appli-
4 cations for poor relief and report on and investigate such cases
5 and shall supervise the distribution of the poor fund. The
6 secretary shall hold his office at the pleasure of, and subject
7 to removal by, the county board.

Sec. 5. In counties where no board is appointed the judge
2 having juvenile jurisdiction in the county may appoint a sec-
3 retary of county welfare to co-operate with the county court
4 and the state board of children's guardians in furtherance of
5 the purposes of this act. Such secretaries shall receive such
6 salary as may be fixed by such judge with the approval of the
7 county court and the state board of children's guardians.

Sec. 6. Secretaries appointed under this act shall, when so
2 directed by the Judge of the juvenile court of the county to
3 perform the duties of probation officers, aid in the investigation
4 and supervision of county allowance to mothers under the
5 mothers' pension law and shall co-operate with the state labor
6 inspectors in furtherance of their duties.

Sec. 7. It shall be the duty of all county agricultural agents,
2 local health officers, school teachers and county superintendents
3 of schools to report to the county welfare boards of their re-
4 spective counties all cases needing attention under this act
5 which shall come to their attention.

Sec. 8. The traveling and other necessary expenses of the
2 several members of the board when acting officially as mem-
3 bers thereof and similar expenses of the secretary while em-
4 ployed in the business of the board shall be paid by the county
5 court on presentation to it of itemized accounts of such ex-
6 penses duly verified by affidavit.

7 All acts and parts of acts in conflict herewith are hereby
8 repealed.

CHAPTER 61

(House Bill No. 445—Mr. Scanlon)

AN ACT to repeal section eleven of chapter seventy-four of the code of West Virginia, added thereto by chapter sixty-one of the acts of the legislature of one thousand nine hundred and twenty and one thousand nine hundred and twenty-one, relating to recording assignments.

[Passed April 11, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Repealing section eleven of chapter seventy-four.

Be it enacted by the Legislature of West Virginia:

Section 1. That section eleven of chapter seventy-four of 2 the code of West Virginia, added thereto by chapter sixty-one 3 of the acts of the legislature of one thousand nine hundred and 4 twenty-one, be, and the same is hereby repealed.

CHAPTER 62

(House Bill No. 470—Mr. Garvin of Fayette)

AN ACT to promote the efficiency of the West Virginia national guard and to bring the military laws of the state in conformity with the laws and regulations of the United States and to amend chapter eighteen of Barnes' code of one thousand nine hundred and sixteen, as amended, by adding thereto sections forty-five, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, and one hundred and eight; by amending and re-enacting sections eight, nine, twenty, thirty-two, thirty-five, thirty-seven, thirty-eight, forty-one, forty-four, forty-six, forty-eight, sixty-five, sixty-six, seventy and seventy-two; and by repealing section one hundred-*a* of chapter eighteen of Barnes' code of West Virginia of one thousand nine hundred and sixteen, as amended.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

<p>Sec. 8. Authorized appointment of staff by commander-in-chief; qualifications, duties; compensation; term of office; shall keep record; make report; shall have military code printed and distributed; bonds; employ clerical force; other duties of adjutant general.</p> <p>9. National guard; powers of Governor; eligibility for commission.</p> <p>20. Vacancies, how filled.</p> <p>32. Age and other requirements; enlistment.</p> <p>35. Officers withdrawn from active service; Governor may order to active duty.</p> <p>37. Reserve list; powers of board; oath.</p> <p>38. Discharge from service.</p> <p>39. Reducing of non-commissioned officers.</p> <p>41. Officers responsibility for military property, penalty for violation in section ninety-nine.</p> <p>44. Pay of officers and enlisted men; how paid and disbursed; work</p>	<p>Sec. let on competitive bids; transportation.</p> <p>45. Allowance for clerical services; other allowances.</p> <p>46. Military fund, how constituted; quarterly statement by treasurer.</p> <p>48. Annual inspection.</p> <p>65. Military courts.</p> <p>66. (a) General courts-martial appointed by commander-in-chief; (b) special courts-martial; (c) summary courts-martial; courts of inquiry.</p> <p>70. Issuance of subpoenas.</p> <p>72. Trial procedure.</p> <p>101. Leave of absence.</p> <p>102. Dishonorable discharge.</p> <p>103. Armory board, how constituted; duties.</p> <p>104. Other duties of Armory board; limitation of amount to be expended; jointly established armory.</p> <p>108. Armory under control of board; conflicting acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That chapter eighteen of Barnes' code of one thousand nine hundred and sixteen, as amended, be amended by repealing section one hundred-a; by the addition thereto of sections forty-five, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, and one hundred and eight; and that sections eight, nine, twenty, thirty-two, thirty-five, thirty-seven, thirty-eight, forty-one, forty-four, forty-six, forty-eight, sixty-five, sixty-six, seventy and seventy-two of chapter eighteen of Barnes' code of one thousand nine hundred and sixteen, as amended, be amended and re-enacted to read as follows:

Section 8. The staff of the commander-in-chief shall consist 2 of one adjutant general, with rank of brigadier general; and 3 in addition thereto six aides with rank not above that of colonel, 4 may be detailed from the line. Such details to be made at the 5 pleasure of the commander-in-chief. The commander-in-chief 6 may also appoint and commission an honorary staff to serve 7, during his term of office of such number as he may deem ad- 8 visable, with such rank as he may fix; which honorary staff 9 will not be held to be a part of the national guard. The ad- 10 jutant general shall be appointed and commissioned by the gov- 11 ernor, but no person shall be appointed adjutant general unless 12 such person has had at least one year's service in the national 13 guard of this or some other state, or the army of the United

14 States, or all combined. In time of peace he shall perform the
15 duties of chief of the pay, quartermaster and ordnance depart-
16 ments, unless otherwise ordered by the governor, and shall give
17 bond in such sum as the commander-in-chief may require, such
18 bond to be provided in like manner as the bonds of other offi-
19 cers. He shall receive a compensation of thirty-six hundred
20 dollars per annum, which shall be paid to him in equal monthly
21 instalments, and his term of office shall be for four years. He
22 shall attest, record and seal, with the seal of the state, all com-
23 missions issued by the governor and keep a register of all com-
24 missioned officers with dates of commission and all changes oc-
25 curring in the commissioned force and shall keep a full and com-
26 plete record at all times of the national guard of the state. He
27 shall as soon as possible after the first day of October in each
28 year, make a report to the commander-in-chief of the transac-
29 tions and the expenditures of his department and the condition
30 of the national guard. Said report shall show all receipts into
31 the military or militia fund of the state from every source, in-
32 cluding fines, appropriations from the state and of all moneys
33 received from the federal government and from every other
34 source; all such funds and moneys shall be paid into the state
35 treasury as soon as received, and shall be credited to the military
36 fund. Said statement shall also show in detail, all expenditures
37 made from each fund and the purpose of expenditure; and shall
38 state such other details as the governor may order, and said
39 report shall be communicated by the governor to the next ses-
40 sion of the legislature. He shall also make such other reports
41 and returns as may be required by the commander-in-chief
42 from time to time. He shall cause to be prepared and issued to
43 the different organizations of the national guard all necessary
44 books and blanks for reports, records, returns, and general ad-
45 ministration, and shall, at the expense of the state, cause the
46 military laws, military code and rules and regulations in force
47 to be printed, bound in proper form and distributed; one copy
48 to each commissioned officer and one each to all the circuit, in-
49 termediate and criminal court judges, sheriffs, assessors, and
50 justices of the peace in the state requiring them, and shall pro-
51 cure and supply all necessary text books of drill and instruction.
52 He shall keep in his office an accurate account of all official
53 bonds, except the bond of the adjutant general, which shall be
54 filed with the auditor of the state, the reports and returns of
55 troops and heads of military departments and all other writings

56 and papers which are required to be transmitted to and pre-
57 served at the general headquarters of the state militia. He shall
58 employ such clerical force and assistants as may be required in
59 the military department, *provided* that not to exceed the sum
60 of five thousand dollars shall be expended for this purpose in
61 any one year. He shall keep all records of volunteers from the
62 state of West Virginia, commissioned or enlisted in any of the
63 wars of the United States and on individual claims of citizens
64 of West Virginia for service rendered in such wars. He shall
65 assist all persons residing in the state of West Virginia having
66 claims against the United States for pensions, bounty or back
67 pay or such claims as have arisen out of, or by reason of service
68 in any of said wars. To this end he shall cooperate with the
69 agents or attorneys of said claimants, furnish to claimants only,
70 all necessary certificates or certified abstracts from or copies
71 of records or documents in his office, and shall in all practicable
72 ways seek to secure speedy and just action in all claims now
73 pending or which may hereafter be filed; *provided*, that any and
74 all the above services shall be rendered without charge to the
75 claimant. He shall establish and maintain as a part of his of-
76 fice a bureau of records of the services of the West Virginia
77 troops during the said wars and shall keep, arranged in proper
78 and convenient form, all records and papers pertaining thereto.
79 The provisions of this section shall not be held to effect the
80 commission of any officer serving on the governor's staff at the
81 date of the passage of this act, nor until the expiration of the
82 term for which such officer was appointed; nor shall any such
83 officer be deprived of any compensation allowed to him by law
84 at the time of the passage of this act, nor until the expiration
85 of the term for which such officer was appointed.

Sec. 9. The national guard of West Virginia shall consist
2 of the commissioned officers, enlisted men, staff corps and de-
3 partments of West Virginia regularly organized and maintained
4 pursuant to law. The governor shall have power to alter, di-
5 vide, annex, consolidate, disband, or reorganize the same and
6 create new organizations whenever, in his judgment the effi-
7 ciency of the state force will be thereby increased, except in
8 so far as such action would be contrary to the provisions of
9 the regulations of the war department governing the national
10 guard; and he shall at any time have power to change the or-
11 ganization of departments, brigades, regiments, battalions, and
12 companies so as to conform to any organization, system of drill,

13 or instruction now or hereafter adopted for the army of the
14 United States, and for that purpose the number of officers of
15 the brigades, regiments, battalions and companies may be in-
16 creased or diminished and their rank increased or reduced to
17 the extent made necessary by such change. The officers of the
18 foregoing departments shall be of like rank as officers of sim-
19 ilar departments of the army of the United States and shall
20 perform like duties; the number of such officers to be determined
21 by the commander-in-chief, but this number shall be limited
22 to the actual requirements of the different departments, and
23 the commander-in-chief may designate one officer as chief of a
24 number of different departments, unless such action would be
25 contrary to the regulations provided by the war department for
26 the government of the national guard. The governor shall have
27 the power in case of war, insurrection, invasion or imminent
28 danger thereof to increase the force beyond the maximum now
29 established by law and to organize the same with the proper
30 officers as the exigencies of the service may require. In the
31 event of the formation of any such new organizations, officers
32 holding commissions in the national guard as organized at such
33 time, shall be eligible for commission in said new organizations
34 with like, or higher grade and rank, if found capable, after ex-
35 amination by a regular authorized board and shall be given pref-
36 erence over the one not holding commission at the time.

Sec. 20. A vacancy in the office of the brigade commander
2 may be filled by the commander-in-chief by appointment, or he
3 may issue an order for an election to fill the vacancy. In case
4 an election is ordered, the field officers of each regiment and
5 the commanding officers of companies shall be the electors, but
6 no person shall be eligible to appointment or election to this
7 office who has not served in some recognized military establish-
8 ment for at least five years.

Sec. 32. Able-bodied men of good character, eighteen years
2 of age and upwards, who can read and write, may be enlisted
3 in the national guard, in the first instance for a term of three
4 years; and on the expiration of that term they may be re-
5 enlisted, either immediately or at any time thereafter, for a
6 term of one or more years, not exceeding three years; but un-
7 less they re-enlist within sixty days from the date of their dis-
8 charge, their service shall not be considered as continuous.

9 No person above the age of forty-five years shall be enlisted
10 or re-enlisted, except by permission of the commander-in-chief,

11 nor any person under the age of eighteen years; nor any person
12 who has been expelled or dishonorably discharged from any mil-
13 itary organization. Every enlisted man, if in active service,
14 may continue to be held for duty for a period not exceeding
15 three months after the expiration of his term of enlistment or
16 re-enlistment, and shall retain rank and be eligible to promo-
17 tion until he is actually discharged. When an organization is
18 consolidated or disbanded, its enlisted men discharged by rea-
19 son thereof who shall thereafter re-enter the service shall have
20 allowed to them as part of their term of service the time al-
21 ready served.

Sec. 35. Commissioned officers who shall be rendered sur-
2 plus by reduction, consolidation, or disbandment of organiza-
3 tions or in any manner provided by law, now or hereafter, shall
4 be withdrawn from active service and placed upon the reserve
5 list; *provided*, such officer shall have had four years continuous
6 service in the national guard of this state immediately preced-
7 ing his being placed on the reserve list, and, *provided, further*,
8 that the governor is authorized to honorably discharge such of-
9 ficer having less than four years service at the time they are
10 rendered surplus, in any manner provided by law. Such offi-
11 cers now on the reserve list as have not had four years service
12 immediately preceding their being placed on such list shall in
13 like manner be discharged. Officers placed on the reserve list
14 shall be removed from the line of promotion while on such list,
15 except that officers who may be detailed or promoted from the
16 line to staff duty, or to duty in any of the departments who
17 may be relieved of such staff duty, or department duty shall
18 be placed on the reserve list with rank held at the time of such
19 detail or transfer and promotion and shall retain the right to
20 promotion the same as if they had remained in the line. The
21 governor, upon request of organization commanders may order
22 reserve officers to active duty, in which case they shall rank in
23 their grade from the date of such orders and he may relieve
24 them from such duty and return them to the reserve list at his
25 discretion. Officers who have tendered their resignations may
26 be placed on the reserve list pending settlement of their prop-
27 erty accounts, under such regulations as may be prescribed by
28 the commander-in-chief.

Sec. 37. Any commissioned officer who shall have served for
2 the continuous period of ten years, may, upon his own request,
3 be placed upon the reserve list and withdrawn from active ser-

4 vice and command, by order of the commander-in-chief; and the
5 vacancy thereby created shall be filled in the same manner as
6 other vacancies. Any commissioned officer who has become or
7 shall become disabled, and thereby incapable of performing the
8 duties of his office, shall be withdrawn from service and com-
9 mand, and placed on the reserve list, and any commissioned of-
10 ficer who has become or who shall hereafter become unfit or in-
11 competent, and thereby incapable of performing the duties of
12 his office, shall be dismissed. Such transfer or dismissal shall
13 be by order of the commander-in-chief, and before making such
14 order, the commander-in-chief shall appoint a board of not less
15 than three nor more than five commissioned officers, one of whom
16 shall be a medical officer, whose duty it shall be to determine
17 the facts as to the nature and cause of incapacity of such offi-
18 cer as appears disabled, unfit or incompetent from any cause,
19 to perform military service, and whose case shall be referred
20 to it by the commander-in-chief. No officer whose rank or pro-
21 motion would be affected by the decision of such board, in any
22 case that may come before it, shall participate in the examina-
23 tion or decision of the board in such case. Such board is hereby
24 invested with the powers of courts of inquiry and courts-
25 martial, and whenever it finds an officer incapacitated for active
26 service, shall report such facts to the commander-in-chief, stat-
27 ing cause of incapacity, whether from disability, unfitness or
28 incompetency and if he approves such findings, such officer
29 shall be placed on the reserve list or dismissed as provided for
30 in this section. The members of the board shall, before entering
31 upon the discharge of their duties, be sworn to an honest and
32 impartial performance of their duties as members of such board.
33 No officer shall be placed upon the reserve list or dismissed by
34 the action of such board without having had a fair and full
35 hearing before the board, if upon due notice he shall demand
36 it. It shall not be necessary to refer any case for the action of
37 such board arising under this section, unless the officers desig-
38 nated by the commander-in-chief to be placed on the reserve
39 list, or dismissed, shall within twenty days after being notified
40 that they will be so transferred or dismissed, serve on the ad-
41 jutant general a notice in writing that they demand a hearing
42 and examination before such board.

Sec. 38. Whenever any enlisted man of the national guard
2 shall have performed service therein for the term of his enlist-
3 ment or re-enlistment and has turned in to the proper officer

4 all state or military property for which he is responsible, the
5 commanding officer of his battery, company or corps shall grant
6 him a full and honorable discharge from the military service
7 of the state, except in time of insurrection or invasion. Dis-
8 charge for physical disability shall be granted upon the cer-
9 tificate of a medical officer. The commander-in-chief may, for
10 sufficient reason, and in his discretion, discharge enlisted men
11 under his command, with or without their consent, at any time,
12 upon the recommendation of the commanding officer of the bat-
13 tery, company or corps, regiment or battalion to which they
14 belong; but no enlisted man shall be honorably discharged from
15 service unless he produces the certificate of his immediate com-
16 manding officer that he has turned over or satisfactorily account-
17 ed for all property issued to him. Enlisted men may be hon-
18 orably discharged, discharged, or discharged dishonorably; but
19 in no case may an enlisted man be dishonorably discharged, un-
20 less by sentence of a general court-martial except as hereinafter
21 provided.

Sec. 39. The officer warranting a non-commissioned officer
2 shall have power to reduce, or reduce to the ranks, on the ap-
3 plication of the immediate commanding officer of the organiza-
4 tion to which he belongs, for good and sufficient reasons, the
5 non-commissioned officers of his command, *provided, however,*
6 that in cases requiring immediate example a non-commissioned
7 officer may be reduced, or reduced to the ranks, by his imme-
8 diate commander, subject to appeal to, and review and approval
9 by the officer warranting him; and an enlisted man who cannot,
10 after due diligence be found, or who shall remove his residence
11 from the state, or to such a distance from the armory of his or-
12 ganization as to render it impracticable for him to properly per-
13 form military duties, or who shall be convicted of felony, or
14 who shall be expelled from his organization in accordance with
15 by-laws lawfully adopted, may be discharged by order of the
16 commander-in-chief.

Sec. 41. All officers shall be responsible for the safe-keeping
2 and return of all military property committed to their charge,
3 but no such property shall be issued until suitable bond shall
4 be given by such officers, in amount and with security approved
5 by the commander-in-chief, for the safe-keeping and return of
6 the same. Whenever property is ordered transferred by the
7 commander-in-chief from one company or corps to another the
8 officer turning the property over shall be held responsible for

9 the same until he has received a receipt from the officer to whom
 10 the transfer is ordered to be made. In case of state property
 11 worn out and rendered worthless in the service of the state,
 12 an inspector shall have power to condemn the same and author-
 13 ize the officer responsible to drop it from his returns, but no in-
 14 specting officer shall exercise this power except when inspecting
 15 said property under authority of the commander-in-chief.

16 Any officer who shall neglect or refuse to properly account for
 17 any military property he shall have received, shall be guilty of
 18 a misdemeanor and upon conviction thereof, shall be punished
 19 as prescribed in section ninety-nine of this chapter.

Sec. 44. The pay for officers and enlisted men of the West
 2 Virginia national guard for service at camps of instruction,
 3 rifle practice, practice marches and manuevers, or other duties
 4 ordered by the president of the United States shall be such as
 5 are provided in the national defense act or amendments thereto.
 6 Officers and enlisted men, when employed in the actual service
 7 of the state, as defined and provided in this act, beginning on
 8 the day they assembled at their armories, or other designated
 9 places, until the day they have returned thereto and been prop-
 10 erly relieved inclusive, fractional parts of a day counting as a
 11 full day, shall receive pay and allowance at the following daily
 12 rates:

13 Officers, the same pay which is now in effect, or which may
 14 hereafter be provided for like grades in the army of the United
 15 States. Transportation and subsistence will be provided by the
 16 state; *provided*, officers detailed in the adjutant general's office
 17 shall not receive subsistence.

18 Enlisted men—

19	First grade	
20	Master sergeants, etc.,	\$4.50 per day
21	Second grade	
22	Technical and first sergeants, etc.,	\$3.75 per day
23	Third grade	
24	Staff sergeants, etc.,	\$3.50 per day
25	Fourth grade	
26	Sergeants, etc.,	\$3.00 per day
27	Fifth grade	
28	Corporals, etc.,	\$2.50 per day
29	Sixth grade	
30	Privates 1st class, etc.,	\$2.25 per day

31	Seventh grade	
32	Privates	\$2.00 per day
33	Cooks	\$3.00 per day
34	Assistant cooks	\$2.50 per day

35 Transportation and subsistence will be provided by the state.

36 All payments made under the provisions of this chapter ex-
37 cept for active service, shall be paid out of the military fund
38 and all expenses incurred in active service shall be paid out of
39 any moneys in the treasury not otherwise appropriated. The
40 military fund shall be disbursed on warrant of the adjutant
41 general, properly drawn and in such manner as the governor
42 may order, but no warrant for funds signed by him shall be
43 honored by the auditor until such adjutant general shall have
44 executed and filed such bond as may be required by the
45 commander-in-chief. Payments shall be made on proper vouch-
46 ers, which vouchers shall show the authority under which the
47 expenditure is made, contain an itemized statement of the trans-
48 action and be filed for record in the office of the adjutant gen-
49 eral. All claims for services rendered or material furnished
50 shall be approved by the officers ordering the work or material
51 and shall be over his certificate to the effect that the amount
52 is just and reasonable and that it had not been previously paid.
53 No expenditures shall be made by any officer until an estimate
54 of the amount and a statement of the necessity therefor shall
55 have been laid before the adjutant general and his approval re-
56 ceived. Where practicable, competitive bids shall be received
57 for all work or material involving an expenditure of more than
58 two hundred dollars and the contract will be let to the lowest
59 responsible bidder, who, if required by the commander-in-chief,
60 shall enter into a good and sufficient bond for the proper per-
61 formance of his contract.

62 The several railroads and other transportation companies in
63 this state shall furnish transportation for all officers and en-
64 listed men in the national guard, together with the stores, am-
65 munition, and equipment when traveling on duty under orders
66 from competent authority, under request of the officer desiring
67 transportation, which request will state the number of persons
68 to be carried and their destination, and for such transportation
69 said companies shall be entitled to receive compensation from
70 the state at the rate specified.

Sec. 45. There shall be allowed to each regimental head-
2 quarters for clerical service the sum of fifty dollars per month
3 and to each company or corresponding unit the sum of twenty
4 dollars per month for like service.

5 There shall be paid to the enlisted man who is directly re-
6 sponsible for the care and custody of the quartermaster and
7 ordnance property of each organization and to the chief me-
8 chanic of each battery of artillery, the sum of ten dollars per
9 month upon the certificate of his commanding officer that he has
10 faithfully and satisfactorily performed the duties of his office
11 and accounted for all property entrusted to his care. Such
12 payments to be made quarterly upon vouchers approved by the
13 adjutant general.

Sec. 46. The sums of money which may be appropriated by
2 the legislature for carrying into effect the provisions of this act
3 and the fines and penalties required thereby to be paid to the
4 treasurer of the state shall constitute the military fund of the
5 state for the uses and purposes set forth in this chapter. The
6 state treasurer shall, at the end of each quarter, render to the
7 adjutant general a statement of the condition of the military
8 fund, showing the amount on hand at the beginning of the
9 quarter, the amount received, and expended during the quarter
10 and balance on hand at the end of the quarter. The adjutant
11 general shall furnish the commander-in-chief a copy of this
12 quarterly report and if the sum appropriated by the legislature
13 for any year shall not be sufficient to pay for duty at the annual
14 encampment for the number of days provided in this chapter,
15 then either such encampment shall not be held for that year,
16 or held without pay, or held for less number of days than pro-
17 vided in this chapter, as the commander-in-chief may deter-
18 mine, so that no deficiency shall be created by reason of holding
19 of such encampment.

Sec. 48. An annual inspection and muster of each organiza-
2 tion of the national guard shall be made by an inspector at such
3 time and place as the commander-in-chief shall order and direct.

Sec. 65. The military courts of this state shall be: first, gen-
2 eral courts-martial; second, special courts-martial; third, sum-
3 mary courts-martial; fourth, courts of inquiry.

Sec. 66. (a) General courts-martial may be appointed by
2 the commander-in-chief and shall consist of not less than five
3 nor more than nine officers, and at all times a majority of the
4 court must be of a grade at least equal to that of the accused.

5 While a number less than five cannot be organized as a general
6 courts-martial and proceed with a trial, they may perform such
7 acts as are preliminary to the organization or action of the
8 court.

(b) Special courts-martial may be appointed by the com-
2 mander-in-chief or the commanding officer of a brigade, regi-
3 ment or detached battalion, and shall consist of not less than
4 three officers.

(c) Summary courts-martial may be appointed by the com-
2 mander-in-chief or as provided in the manual for courts-martial,
3 United States army.

(d) Courts of inquiry shall consist of not less than three of-
2 ficers, and may be appointed by the commander-in-chief or as
3 provided in the manual of courts-martial, United States army.

Sec. 70. The president or judge advocate of any military
2 court, both before and after being sworn, may issue subpoenas
3 requiring the evidence of witnesses and the production of docu-
4 mentary evidence at any designated place of hearing of court;
5 and may direct the commanding officer of any organization to
6 cause such subpoena to be served. The president of any mili-
7 tary court may, in case of refusal or failure to obey the sub-
8 poena issued to any person, issue attachments to compel the at-
9 tendance of witnesses which may be served by any peace officer
10 or other person, or persons, designated by the president of the
11 court. The person attached for refusal or failure to obey such
12 subpoena shall pay the fees for such service, and a penalty of
13 twenty-five dollars to be paid into the state treasury, unless he
14 satisfies the court that his failure to obey was excusable. The
15 court may issue execution for such fees and penalty which shall
16 be levied in the same manner as other executions under the law
17 of this state.

Sec. 72. When an officer or enlisted man is put in arrest for
2 the purpose of trial, a copy of the charges and specifications
3 upon which he is to be tried, shall be delivered to him or left
4 at his last known place of abode or business, within twenty days
5 after arrest, and a court shall be ordered for his trial within
6 thirty days after the notice of arrest is received by the officer
7 authorized to order the court. He may be held in any jail or
8 other place of detention or released upon his own recognizance
9 or upon such bail as deemed necessary by the circuit court of
10 the county in which he is detained. If a copy of the charges
11 and specifications be not served, or a court be not ordered within

12 the time herein limited then arrest shall cease; but such charges
13 and specifications may be served, a court ordered and the officer
14 or enlisted man be brought to trial within twelve months after
15 such release from arrest. The appearance of the accused, with-
16 out objection, and pleading to the charges shall be deemed a
17 waiver of any defect or irregularity of such service of any of
18 the papers mentioned in this section. If any officer or enlisted
19 man who has been ordered or duly summoned to appear before
20 a military court for trial fail to appear, the court may enter a
21 plea of not guilty for him and proceed to trial in his absence.

Sec. 101. All officers and employees of the state or sub-
2 division or municipality thereof who shall be members of the
3 national guard shall be entitled to leave of absence from their
4 respective office or employment without loss of pay, status, or
5 efficiency rating, on all days during which they shall be en-
6 gaged in drills or parades during business hours ordered by
7 proper authority or for field training or active service ordered
8 or authorized under the provisions of state law.

Sec. 102. A dishonorable discharge from service in the na-
2 tional guard shall operate as a complete expulsion from the
3 guard, a forfeiture of all exemptions and privileges acquired
4 through membership therein and disqualification for any mil-
5 itary office under the state. The names of all persons dishonor-
6 ably discharged shall be published in orders by the adjutant
7 general at the time of such discharge and in two newspapers of
8 opposite politics, and general circulation, if such there be in
9 the locality in which such dishonorably discharged person re-
10 sides and a complete list of all such dishonorably discharged
11 persons shall be kept posted in all the armories in the state.
12 No person so discharged shall be admitted to any armory or
13 other meeting place of the national guard or to the immediate
14 vicinity of any encampment, drill or parade of troops. All
15 commanding officers are hereby required to enforce these pro-
16 hibitions.

Sec. 103. The commander-in-chief, the secretary of state
2 and the state auditor shall constitute the state armory board,
3 whose duties it shall be to approve the selection of all armory
4 sites and plans and specifications, and to contract for the erec-
5 tion of all armories, for the purchase of buildings suitable, or
6 which can be made suitable for armory purposes and the ac-
7 quisition of armories already constructed; and to audit and ap-
8 prove all bills, claims and accounts in connection with the con-

9 struction or purchase of all armories before such bills, claims
10 and accounts shall be paid, and to perform such other duties as
11 this act may require, but without compensation except that their
12 actual and necessary traveling expenses shall be paid; and al-
13 lowance shall be made for the necessary clerical assistance,
14 printing, stationery and postage, which shall be paid out of the
15 fund appropriated for the maintenance of the national guard.

Sec. 104. The state armory board shall have control of any
2 arsenal, armory, or other quarters of the national guard, camp
3 ground and rifle range owned by the state, and shall cause the
4 same to be kept in good repair, and all money which may be ap-
5 propriated for the erection, acquisition or repair of such build-
6 ings, grounds or ranges shall be expended and accounted for
7 by said armory board. The said armory board may procure
8 by purchase or condemnation sufficient ground for armories,
9 arsenals, quarters, camp grounds or rifle ranges, when funds
10 are available for the purpose, the title of same to be in the
11 name of the state and may when the state shall be reimbursed
12 for its expenditures, transfer title of such camp grounds and
13 rifle ranges to the United States, but may provide for the re-
14 tention by the state of civil and police jurisdiction through
15 such ranges and camp grounds and a right to tax persons re-
16 siding thereon; the government of the United States being au-
17 thorized to hold, not to exceed in all one thousand acres of land
18 in the state, for this purpose.

19 The said state armory board shall expend from state funds
20 not to exceed seventy-five thousand dollars in any one year for
21 the purposes of this act, and shall designate as near equally as
22 possible from the several military organizations of the national
23 guard which of them shall receive aid in any one year, taking
24 into consideration the proficiency of the organization asking for
25 aid, and its needs, and giving preference to organizations not
26 already provided with a suitable armory.

27 Any city or village, or two or more cities or villages jointly,
28 in which an armory has been heretofore, is now or may hereafter
29 be erected or authorized under the provisions of this act, may
30 raise and appropriate money and funds in the aid of the con-
31 struction, repair or improvement thereof, and to that end may
32 issue bonds payable not more than thirty years after their issue
33 and bearing interest at a rate not exceeding six per cent per
34 annum, and may deposit such money and funds and the pro-
35 ceeds of the sale of such bonds with the state treasurer to the

36 credit of the proper construction fund, and may make such fur-
37 ther provisions for the maintenance and improvement of such
38 armory as may be deemed necessary; *provided*, that whenever
39 the board deems it expedient, and in furtherance of the purposes
40 of this act, it may purchase and finish armories already built
41 or partly built.

42 All moneys raised for the building of any armory shall be
43 paid to the state treasurer, who shall keep separate account with
44 each company or battery which shall avail itself of the provi-
45 sions of this act credit the same with the amount of money de-
46 posited by such organization together with the appropriation
47 made under the provisions of this act; and all bills for the con-
48 struction or purchase of armories shall after being approved by
49 the said board, be paid out of said account or fund, and charged
50 to the proper organization, upon the warrant of the state au-
51 ditor, and the state auditor shall issue his warrant upon said
52 fund upon the certificate of said board.

53 All money returned and repaid to the state treasury from
54 armory property sold, damaged or destroyed, or otherwise, shall
55 be credited to a general armory fund and may be expended for
56 the building and construction or the purchase of armories for
57 military organizations not having armory accommodations un-
58 der the provisions and limitations of this act.

59 Whenever any such military organization which has availed
60 itself of the provisions of this act and has received the appro-
61 priation provided herein, shall be called or drafted into the
62 federal service or shall be mustered out of the service of this
63 state, and it shall appear probable that no new military organ-
64 ization will be organized in the city or village in which the ar-
65 mory is located, and there is no other military organization oc-
66 cupying said armory the adjutant general shall immediately
67 take possession and close the same, and not permit its use for
68 other than military purposes, but the said board shall have the
69 authority and they are hereby expressly empowered to sell,
70 transfer and convey said property to the municipality in which
71 the same is located, for public purposes, upon the re-payment
72 to the state for credit to the general armory fund, of the ap-
73 propriation expended thereon, without interest; *provided*, that
74 if such municipality shall not purchase said property the said
75 board shall then be authorized to sell, transfer and convey the
76 same to any individual, firm or corporation, repaying to the
77 state at least the full appropriation expended therefor; and

78 *provided, further*, that if the said armory cannot be sold in this
79 manner the armory board may lease the armory to the munici-
80 pality for public purposes at an annual rental which shall not
81 be less than ten per cent of the amount invested by the state in
82 such armory; *and, provided, further*, that the said armory
83 board, subject to the approval of the governor, is hereby author-
84 ized and empowered to sell, transfer and convey on behalf of
85 the state any state armory site and buildings which in the judg-
86 ment of the board are unsuitable for military purposes or which
87 has been condemned by the state fire marshal. The moneys so re-
88 ceived from the sale of such armories shall be paid into the state
89 treasury and by the treasurer accredited to the general armory
90 fund.

Sec. 108. Upon the completion of any new armory building
2 or the purchase of any armory building property, the control
3 and use of said armory shall vest in the armory board as pro-
4 vided by this act; *provided*, that the proceeds of rentals and
5 other revenue derived from such armories may be devoted and
6 applied by the armory board to the maintenance, extension, im-
7 provement and equipment thereof. The said armory board may
8 make and alter rules and regulations for the government of all
9 officers and persons having charge of armories, arsenals, or
10 other military property in this state.

11 All acts or parts of acts inconsistent herewith are hereby
12 repealed.

CHAPTER 63

(House Bill No. 475—Mr. Strother)

AN ACT to amend and re-enact chapter one hundred and six of
the acts of the legislature, one thousand nine hundred and
twenty-one, regular session, entitled, "an act to regulate the
practice of the profession of engineering, and to create a state
board of registration for engineers, and to prescribe penalties
for the violation of the provisions thereof."

[Passed April 19, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.	SEC.
1. Professional engineering, requirements.	7. Record of board; roster of engineers; report to Governor.
2. State board of registration for engineers created; appointed by Governor; term expires June thirtieth.	8. Registration fee; eligibles; certain established facts <i>prima facie</i> evidence of qualification.
3. Qualification of members.	9. Powers of board.
4. Certificate of appointment; oath.	10. Certificates of registration.
5. Regular and special meetings; shall elect president; three necessary for quorum.	11. Fraudulent practice punishable by fine from one hundred to five hundred dollars.
6. Fund of board of registration for engineers; compensation; secretary to give bond.	12. Exemptions from provisions of act.
	13. Application of act to corporations.
	14. Act not to affect present members; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and six of the acts of the legislature of one thousand nine hundred and twenty-one, regular session, entitled, "an act to regulate the practice of the profession of engineering, and to create a state board of registration for engineers, and to prescribe penalties for the violation of the provisions thereof," be amended and re-enacted so as to read as follows:

Section 1. In order to safeguard life, health and property, any person practicing or offering to practice as a professional engineer in this state shall hereafter be required to submit evidence that he is qualified so to practice, and shall be registered as hereinafter provided, and it shall be unlawful for any person to practice or to offer to practice in this state as a professional, civil, mining, electrical, structural or mechanical engineer, hereinafter called engineer, except under the provisions thereof.

Sec. 2. To carry out the provisions of this act there is hereby created a state board of registration for engineers hereinafter called the board, consisting of five members, who shall be appointed by the governor. All members shall be registered engineers. The members of the first board shall be appointed to serve for the following terms: two members for one year; two members for two years; one member for three years; said terms ending on the thirtieth day of June of the succeeding years. On the expiration of each of said terms, the term of office of each newly appointed or reappointed member of the board shall be for a period of four years and shall terminate on the thirtieth day of June. Each member shall hold over after the expiration of his term until his successor shall have been duly appointed and qualified. The governor may remove any member of the board at his will and pleasure. Vacancies

16 in the membership of the board, however created, shall be filled
17 by appointment by the governor for the unexpired term. The
18 chief office of said board shall be at the capitol.

Sec. 3. Each member of the board shall be a citizen of the
2 United States and a resident of this state at the time of his ap-
3 pointment. He shall have been engaged in the practice of his
4 profession for at least ten years and shall have been in respon-
5 sible charge of work for at least five years. He shall be a
6 member in good standing of a recognized society of engineers.

Sec. 4. Each member of the board shall receive a certificate
2 of appointment from the governor, and before beginning his
3 term of office he shall file with the secretary of state the con-
4 stitutional oath of office. The board or any committee thereof
5 shall be entitled to the services of the attorney general, in con-
6 nection with the affairs of the board, and the board shall have
7 power to compel the attendance of witnesses, may administer
8 oaths and may take testimony and proofs concerning all mat-
9 ters within its jurisdiction. The board shall adopt and have
10 an official seal which shall be affixed to all certificates of regis-
11 tration granted; and shall make by-laws and rules not incon-
12 sistent with law needed in performing its duty.

Sec. 5. The board shall hold at least two regular meetings
2 each year. Special meetings shall be held at such times as the
3 by-laws of the board may provide. Notice of all meetings shall
4 be given in such manner as the by-laws may provide. The
5 board shall elect annually from its members a president and
6 secretary. A quorum of the board shall consist of not less
7 than three members.

Sec. 6. The secretary of the board shall receive and account
2 for all moneys derived from the operation of this act and shall
3 pay them to the state treasurer, who shall keep such moneys
4 in a separate fund to be known as the "fund of the board of
5 registration for engineers," which fund shall be continued from
6 year to year and shall be drawn against only for the purpose
7 of this act as herein provided.

8 Each member of the board shall receive ten dollars per day
9 for attending sessions of the board or of its committees, and
10 for the time spent in necessary travel, and, in addition, shall
11 be reimbursed for all necessary traveling, incidental and cler-
12 ical expenses incurred in carrying out the provisions of this
13 act, and in addition thereto the secretary shall receive such

14 salary as may be fixed by the board, but in proceedings relative
15 to the fixing of said salary, the secretary shall have no vote.
16 All expenses certified by the board as properly and necessarily
17 incurred in the discharge of its duties, including authorized
18 compensations, shall be paid out of said fund on the warrant
19 of the auditor of the state issued on requisitions signed by the
20 president and the secretary of the board; *provided, however,*
21 that at no time after this act shall have been in effect for one
22 year shall the total of warrants issued exceed the total amount
23 of funds accumulated under this act. The secretary of the
24 board shall give a surety bond satisfactory to the state treas-
25 urer conditioned upon the faithful performance of his duties.
26 The premium on said bond shall be regarded as a proper and
27 necessary expense of the board.

Sec. 7. The board shall keep a record of its proceedings and
2 a register of all applicants for registration showing for each,
3 the date of application, name, age, educational and other qual-
4 ifications, place of business and place of residence, whether or
5 not an examination was required and whether the applicant
6 was rejected, or a certificate of registration granted, and the
7 date of such action. The books and register of the board shall
8 be *prima facie* evidence of all matters recorded therein. A
9 roster showing the names and places of business and of resi-
10 dence of all registered engineers shall be prepared by the
11 secretary of the board during the month of July of each
12 year. On or before the thirty-first day of August of each
13 year the board shall submit to the governor a report of its
14 transactions for the preceding year, together with a complete
15 statement of receipts and expenditures of the board, certified
16 by the president and the secretary, and a copy of the said
17 roster of registered engineers. A copy of this report and
18 roster shall be filed with the secretary of state. Such report
19 and roster shall be printed out of the funds of the board as
20 provided in section six.

Sec. 8. The board shall, on application therefor on pre-
2 scribed form, and the payment of a fee of twenty dollars,
3 issue a certificate of registration as an engineer:

4 (a) To any person who submits evidence satisfactory to
5 the board that he is fully qualified to practice engineering.

6 (b) To any person who holds a like unexpired certificate
7 of registration issued to him by proper authority in the Dis-

8 trict of Columbia, in any state or territory of the United
9 States, or in any province of Canada, in which the require-
10 ments for the registration of engineers are of a standard sat-
11 isfactory to the board.

12 *Provided, however,* that no person shall be eligible for reg-
13 istration who is under twenty-one years of age, who is not a
14 citizen of the United States or Canada, or who has not made
15 declaration of his intention to become a citizen of the United
16 States, who does not speak and write the English language,
17 who is not of good character and repute and who has not been
18 actively engaged for six or more years in engineering work
19 of a character satisfactory to the board. However, each year
20 of teaching, or of study satisfactorily completed in engineer-
21 ing in a school of engineering of standing satisfactory to the
22 board, shall be considered equivalent to one year of such
23 active engagement.

24 Unless disqualifying evidence be before the board, the fol-
25 lowing facts established in the application shall be regarded
26 as *prima facie* evidence satisfactory to the board, that the
27 applicant is fully qualified to practice engineering:

28 (a) Ten or more years of active engagement in engineer-
29 ing.

30 (b) Graduation, after a course of not less than four years
31 in engineering from a school or college approved by the board
32 as of satisfactory standing, and an additional four years of
33 active engagement in engineering.

34 (c) Full membership in the American Association of En-
35 gineers, American Institute of Chemical Engineers, American
36 Society of Civil Engineers, American Institute of Electrical
37 Engineers, American Society of Mechanical Engineers, Amer-
38 ican Institute of Mining and Metallurgical Engineers, Society
39 of Naval Architects and Marine Engineers, or such other na-
40 tional or state engineering societies as may be approved by
41 the board, the requirements for full membership in which are
42 not lower than the requirements for full membership in the
43 professional societies named above.

44 (d) Certificate of reciprocal registration issued under
45 articles of agreement of the council of state board of engi-
46 neering examiners providing the requirements for such cer-
47 tificate are of a standard satisfactory to the board.

48 Applicants for registration, in cases where the evidence
49 originally presented in the application does not appear to the
50 board conclusive or warranting the issuance of a certificate,
51 may present further evidence, which may include the results
52 of a required examination, for the consideration of the board.

53 In determining the qualifications of applicants for registra-
54 tion a majority vote only of the board shall be required.

55 In case the board denies the issuance of a certificate to an
56 applicant, the registration fee deposited shall be returned by
57 the board to the applicant.

58 Certificates of registration shall expire on the thirtieth day
59 of June following their issuance or renewal and shall become
60 invalid on that date unless renewed. It shall be the duty of
61 the secretary of the board to notify by mail every person reg-
62 istered hereunder of the date of the expiration of his certifi-
63 cate and the amount of the fee required for its renewal for
64 one year; such notice shall be mailed at least one month in
65 advance of the date of the expiration of said certificate.
66 Renewal may be effected at any time during the month of
67 June by the payment of a fee of ten dollars. The failure on
68 the part of the registrant to renew his certificate annually in
69 the month of June as required above shall not deprive such
70 person of the right of renewal thereafter, but the fee to be
71 paid for the renewal of a certificate after the month of June
72 shall be increased ten per cent for each month or fraction of
73 a month, that payment for renewal is delayed; *provided, how-*
74 *ever,* that the maximum fee for a delayed renewal shall not
75 exceed twice the normal fee.

Sec. 9. The board shall have the power to revoke the cer-
2 tificate of registration of any engineer registered hereunder
3 who is found guilty of any fraud or deceit in obtaining a
4 certificate of registration or of gross negligence, incompetency
5 or misconduct in the practice of engineering. Any person
6 may prefer charges of such fraud, deceit, negligence, incom-
7 petency or misconduct against any engineer registered here-
8 under; such charges shall be in writing and sworn to by the
9 complainant and submitted to the board. Such charges un-
10 less dismissed without hearing by the board as unfounded or
11 trivial, shall be heard and determined by the board within
13 three months after the date on which they are preferred. A
13-a time and place for such hearing shall be fixed by the board.

14 A copy of the charges, together with a notice of the time and
15 place of hearing, shall be legally served on the accused at
16 least thirty days before the date fixed for such hearing and
17 in the event that such service can not be effected thirty days
18 before such hearing then the date of hearing and determina-
19 tion shall be postponed as may be necessary to permit the
20 carrying out of this condition. At said hearing the accused
21 shall have the right to appear personally and by counsel and
22 to cross-examine witnesses against him and to produce evi-
23 dence and witnesses in his defense. If after said hearing
24 three or more members of the board vote in favor of finding
25 the accused guilty of any fraud or deceit in obtaining a cer-
26 tificate, or of gross negligence, incompetency or misconduct in
27 the practice of engineering, the board shall revoke the certifi-
28 cate of registration of the accused.

29 The board may re-issue a certificate of registration to any
30 person whose certificate has been revoked; *provided*, three or
31 more members of the board vote in favor of such re-issuance
32 for reasons the board deem sufficient.

33 The board shall immediately notify the secretary of state
34 and the clerk of each county, town, and city in the state, of
35 its findings in the case of the revocation of a certificate of reg-
36 istration or of its re-issuance of a revoked certificate of regis-
37 tration.

38 A new certificate of registration to replace any certificate
39 lost, destroyed or mutilated, may be issued, subject to the
40 rules and regulations of the board. A charge of one dollar
41 shall be made for such re-issuance.

Sec. 10. The issuance of a certificate of registration by
2 this board shall be evidence that the person named therein is
3 entitled to all rights and privileges of a registered engineer
4 while the said certificate remains unrevoked or unexpired.

5 Each registrant hereunder may, upon registration obtain
6 a seal of the design authorized by the board, bearing the reg-
7 istrant's name and legend "Registered professional engineer."
8 Plans, specifications, plats and reports issued by a registrant
9 may be stamped with the said seal during the life of regis-
10 trant's certificate, but it shall be unlawful for any one to
11 stamp or seal any document with said seal after the certificate
12 of the registrant named thereon has expired, or has been re-

13 voked unless said certificate shall have been renewed or re-
14 issued.

Sec. 11. Any person who is not legally authorized to prac-
2 tice as an engineer in this state according to the provisions of
3 this act and shall so practice, or offer so to practice in this
4 state except as provided in section twelve of this act, and any
5 one presenting or attempting to file as his own the certificate
6 of registration of another, or who shall give false or forged
7 evidence of any kind to the board, or to any member thereof,
8 in obtaining a certificate of registration, or who shall falsely
9 impersonate any other practitioner, of like or different name,
10 or who shall use or attempt to use an expired or revoked cer-
11 tificate of registration, shall be deemed guilty of a misde-
12 meanor and shall, for each such offense of which he is convicted,
13 be punished by a fine of not less than one hundred dollars nor
14 more than five hundred dollars or by imprisonment for three
15 months, or by both fine and imprisonment.

Sec. 12. The following shall be exempted from the pro-
2 visions of this act:

3 (a) Persons offering to practice in this state as an engi-
4 neer, by any one not a resident of and having no established
5 place of business in this state.

6 (b) Practice as an engineer in this state by any person not
7 a resident of and having no established place of business in
8-9 this state, which this practice does not aggregate more than
10 thirty days in any calendar year; *provided*, that said person
11 is legally qualified for such professional service in his own
12 state or country.

13 (c) Practice as an engineer in this state by any person
14 not a resident of and having no established place of business
15 in this state or any person resident in this state, but whose
16 arrival in the state is recent; *provided, however*, such person
17 shall have filed an application for registration as an engineer,
18 and shall have paid the fee provided for in section eight of
19 this act. Such exemption shall continue for only such rea-
20 sonable time as the board requires in which to consider and
21 grant or deny said application for registration.

22 (d) Engaging in engineering work as an employe of a
23 registered engineer, or as an employe of an engineer, author-
24 ized by paragraphs (b) and (c) of this section; *provided*,
25 that said work may not include responsible charge of design
26 or supervision.

27 (e) Practice of engineering by any person not a resident
28 of and having no established place of business in this state, as
29 a consulting associate of an engineer registered under the pro-
30 vision of this act; *provided*, the non-resident is qualified for
31 such professional service in his own state or country.

32 (f) Practice of engineering solely as an officer or as an
33 employe of the United States or of a common carrier en-
34 gaged in interstate business.

35 (g) Practice of engineering solely as an employe of this
36 state or any political sub-division thereof, or of any corpora-
37 tion, firm or individual when such engineer's time is devoted
38 exclusively to such employment, and such engineer does not
39 offer his services to the public generally for hire.

40 (h) Any engineer who shall not represent himself as, or
41 use the title of, "Registered professional engineer," unless
42 such person is qualified by registration under this act.

Sec. 13. A corporation or partnership may engage in the
2 practice of engineering in this state; *provided*, the person or
3 persons connected with such corporation or partnership in re-
4 sponsible charge of such practice is or are registered as herein
5 required of engineers, or is or are otherwise authorized to
6 practice. The same exemptions shall apply to corporations
7 and partnerships as apply to individuals under this act.

Sec. 14. The provisions of this act shall not affect the term
2 of office of the present members of the state board of regis-
3 tration for engineers appointed under the provision of section
4 three of chapter one hundred and six of the acts of the legisla-
5 ture of one thousand nine hundred and twenty-one, regular ses-
6 sion, but said members so appointed shall continue to hold un-
7 der such appointments as though said act were to continue in
8 full force and effect, but in all other respects said members
9 shall be governed by the provisions of this act.

10 All laws or parts of laws in conflict with the provisions of
11 this act are hereby repealed.

CHAPTER 64

(House Bill No. 511—Mr. Hall of Mingo)

AN ACT providing for the establishment of a state home for aged
and infirm colored men and women.

[Passed April 27, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.	1. State home for aged colored men and women established.	SEC.	3. Eligible to admission.
	2. Selection of site.		4. Charges, how paid; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby established a state institution to be known as the state home for aged and infirm colored men and women. It shall belong to that class of institutions mentioned in section three of chapter fifty-eight of the acts of one thousand nine hundred and nine and shall be managed and controlled as provided in said act. All the provisions whereof shall be as applicable to said home as if the same were named in section three of said act. The chief executive officer thereof shall be the superintendent, who shall be a citizen of the state of West Virginia and a person of good executive ability and shall be appointed by the governor with the advice and consent of the senate.

Sec. 2. The state board of control and the advisory council to the state board of education shall jointly select a suitable site for such home and provide plans for the necessary buildings as soon as practicable after this act shall go into effect; and thereafter after all the provisions of said chapter fifty-eight of the acts of one thousand nine hundred and nine, and of chapter twenty-seven of the acts of one thousand nine hundred and eight and of Barnes' code of one thousand nine hundred and sixteen shall govern herein as far as applicable.

Sec. 3. Colored men and women who because of their extreme old age, or who because of their feeble, infirm and impaired physical condition and who are without means to support themselves, and who have no relatives, friends or organization upon whom, or which, they can depend for care and support shall become eligible for admission to this home, provided their admission to this home shall have been first recommended by a majority of the members of the county court, or the clerk thereof in vacation, of the county in which such individual seeking admission last resided preceding their admission to said home.

Sec. 4. The pay for care and accommodation of such persons who may be admitted to this home, shall be provided by the county court of the county from which they were sent to this home; who shall also pay all just and proper charges for their transportation, from the place from which they may be sent to

6 this home according to the provisions of chapter forty-six, of
7 Barnes' code of the year of one thousand nine hundred and
8 eighteen, as far as the same may be applicable.

9 All acts and parts of acts inconsistent herewith are hereby
10 repealed.

CHAPTER 65

(House Bill No. 598—Mr. Beneke)

AN ACT to prevent the unlawful taking of gas, electric energy or water and the unlawful injury, alteration or obstruction of any gas, water or electric meter and prescribing punishment and penalties for violation.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

<p>SEC. 1. Procuring gas, water or electricity, by device, with intent to defraud, misdemeanor; penalty, fine or imprisonment of both.</p>	<p>SEC. 2. Tampering with pipes, tubes, wires or electrical conductors, misdemeanor; penalty, fine or imprisonment or both.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. Every person who, with intent to injure or defraud, procures, makes, or causes to be made, any pipe, tube, wire, or other conductor of gas, water or electric energy and connects the same, or causes it to be connected, with any main, service pipe or other pipe for conducting or supplying gas, or water or any wires or other conductor of electric energy, in such manner as to supply gas, water or electric energy to any lamp, motor, burner, orifice, or any other device, by or at which gas, water or electric energy is consumed, around or without passing through the meter provided for the measuring and registering of the quantity of gas, water or electric energy consumed, or in any other manner so as to evade payment therefor, and every person who with like intent, injures or alters any gas, water or electric meter, or obstructs its action, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding twelve months, or by a fine not exceeding one thousand dollars, or both, at the discretion of the court.

Sec. 2. Every person who, with intent to injure or defraud connects or causes to be connected, any pipe, tube, wire, electrical conductor or other instrument with any main, service pipe, or other pipe or conduit or flume for conducting water, or with any main service pipe, or other pipe or conduit for conducting gas, or with any main, service wires or other electric conductor, used for the purpose of conducting electric

8 energy for light, heat, or motive services, for the purpose
 9 of taking therefrom, water, gas or electric energy, without
 11 the knowledge of the owner thereof and with intent to evade
 12 payment therefor shall be guilty of a misdemeanor and upon
 13 conviction thereof, shall be punished by imprisonment in the
 14 county jail not exceeding twelve months, or by a fine not
 15 exceeding one thousand dollars, or both, at the discretion of the
 16 court.

CHAPTER 66

(House Bill No. 651—Mr. Oldham)

AN ACT providing for the propounding and prosecution of a claim by and in the name of the state of West Virginia against the government of the United States of America for the recovery, under the present laws of the United States or such as may be hereafter enacted, from said government of all moneys heretofore paid illegally into the federal treasury as a direct tax upon property situated in the state of West Virginia, providing for the recovery of same, authorizing the state board of control to employ counsel and enter into the necessary contracts and agreements for the carrying out of the object of this act, providing for notice to and procure by claimants of such moneys and fixing a prescription period after which such moneys shall escheat to and become the property of the state of West Virginia.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC. 1. Board of control authorized to take steps for the collection of moneys illegally paid to the United States.	SEC. 5. Procedure. 6. Direct tax commission created; duties. 7. Funds turned into State Treasury.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the state board of control be and it is
 2 hereby directed to propound to and against the government of
 3 the United States of America and to prosecute to collection a
 4 claim by and in the name of the state of West Virginia for all
 5 moneys heretofore paid illegally into the federal treasury as
 6 a direct tax upon property situated in the state of West
 7 Virginia.

Sec. 2. That if the state board of control finds that there
 2 is no federal statute or law now existing providing for the
 3 payment of such funds into the treasury of the state of West
 4 Virginia, it is hereby directed to seek, in such manner as to

5 it shall appear necessary and proper, legislation at the hands
6 of the Congress of the United States, providing for the pay-
7 ment of such moneys into the treasury of the state of West
8 Virginia.

Sec. 3. That all such moneys, so collected and paid by the
2 government of the United States, shall be paid into the treas-
3 ury of the state of West Virginia, less the commission for
4 the collection thereof, and shall be held by the state of West
5 Virginia for a period of five years in trust for the claimants of
6 such funds.

Sec. 4. That the state board of control is hereby authorized
2 to employ counsel and to enter into the necessary contracts
3 and agreements with such counsel for the propounding and
4 prosecution of such claim against the government of the United
5 States of America, and fixing the commission to be allowed said
6 counsel for such work, such commission to be contingent upon
7 the collection of such moneys from the United States and to be
7-a payable out of the same, and not to exceed twenty-five per cen-
8 tum thereof; *provided, however,* that the state shall incur no
9 cost or expense in the propounding or prosecution of such
10 claim other than such commission.

Sec. 5. That upon receipt of such funds from the United
2 States by the treasurer of the state of West Virginia, it
3 shall be the duty of the state board of control to give notice
4 to all claimants thereof by publication once each week for a
5 period of eight successive weeks in a newspaper published in
6 each of the counties of the state of West Virginia, and, if
7 there be no newspaper in any county, then by posting at the
8 front door of the court house of such counties for such period
9 of time, which notices shall set forth that such moneys have
10 been collected and shall notify all claimants of same to pro-
11 pound their claims in writing by filing same with said board
12 and it shall warn all claimants and persons interested therein
13 that a failure so to file their respective claims within a
14 period of two years from the date on which such moneys were
15 paid into the treasury of the state of West Virginia, shall
16 forever bar their respective right to such funds or any part
17 thereof, and that in default of the filing of such claims such
18 funds shall escheat to and become the absolute property of the
19 state of West Virginia.

Sec. 6. That all such claimants of such moneys shall file
2 their claims in writing with the state board of control on such

3 forms as it shall provide and shall submit their proofs and
4 evidence to a commission to be known as the direct tax commis-
5 sion, which is hereby created, and shall be composed of the
6 governor, the treasurer and the auditor of the state of West
7 Virginia. If such claims are approved by said commission, the
8 auditor of the state of West Virginia shall draw a warrant on
9 the treasurer of the state of West Virginia, payable to the
10 order of such claimant and the treasurer shall pay such war-
11 rants out of the funds so collected from the government of the
12 United States and held in trust for such purpose. Either such
13 claimants or the state of West Virginia through its attorney
14 general may appeal from the decision of the direct tax com-
15 mission to any court of competent jurisdiction.

Sec. 7. That at the end of a period of five years from the
2 date on which said moneys so collected from the United States
3 shall be paid into the treasury of the state of West Virginia,
4 said funds, to the extent to which no claims have been filed
5 against same, shall escheat to and become the absolute property
6 of the state of West Virginia. Said funds, to the extent that
7 any claims have been filed against same, shall remain in the
8 state treasury subject to the final determination of such claims
9 and all such funds not finally determined to belong to the
10 claimants thereof shall at that time escheat to and become the
11 absolute property of the state of West Virginia.

CHAPTER 67

(Senate Bill No. 12—Mr. Suddarth)

AN ACT to amend and re-enact section two of chapter seventy-
nine of the acts of the legislature of one thousand nine hun-
dred and thirteen, relating to the charter of the city of Graf-
ton, and making a change in the corporate boundary of said
city of Grafton.

[Passed April 17, 1923. In effect from passage. Approved by the Governor
April 24, 1923]

SEC.
2. Corporate limits.

Be it enacted by the Legislature of West Virginia:

That section two of chapter seventy-nine of the acts of the leg-
islature of one thousand nine hundred and thirteen be amended
and re-enacted so as to read as follows:

Section 2. The corporate limits of the city of Grafton shall
2 hereafter be as follows: Beginning at the southeast corner of
3 Roger's mill; thence in a southerly direction to the eastern
4 pier of the boom; thence crossing the Valley river to a point
5 on the west bank thereof, where the boundary line of the for-
6 mer town of West Grafton intersected said river; at a point
7 near said boom; thence with the former boundary line of the
8 western portion of Grafton, formerly West Grafton, to a spring
9 in Warder's field; thence in a straight line to the county road
10 at the southwestern corner of Cobb's lot; thence with the
11 county road to Amon Martin's line, corner of Beaumont ad-
12 dition to the corner of Judkin's land; thence in a straight line
13 southwesterly to three service bushes, corner to McWilliams;
14 thence in a straight line to Bartlett creek, where the branch
15 railroad built to the box factory crosses said creek; thence with
16 the meanderings of said creek to the western line of the At-
17 lantic Refining company's tank property; thence in a straight
18 line to a chestnut on the ridge in Willhide's field; thence in a
19 straight line to the Tygarts Valley river near three linns,
20 corner to St. Clair and Yates; thence with the last men-
21 tioned line extended to a point on the opposite side of said
22 Tygarts Valley river; thence with the meanderings of said
23 river, following low water on the eastern side thereof, to a
24 willow on the river edge, corner of the former corporation of
25 Fetterman, below the old Huffman mill dam; thence following
26 the northerly boundaries of the former corporation of Fetter-
27 man to the big spring at the Northwestern turnpike; thence in a
28 straight line to the intersection of the county road and the said
29 turnpike, near the old John K. Knotts residence; thence with
30 the southern meanderings of said turnpike to the intersection
31 with the Grafton road near the dwelling of the late John W.
32 Blue; thence to the eastern boundary line of said Grafton road;
33 thence with the eastern boundary line of said Grafton road to
34 the point of intersection of the western line of the Anna V. L.
35 Drennan lot now owned by Mary E. Sommerville with the
36 eastern line of said Grafton road; thence in a southerly direc-
37 tion to the railroad bridge at the cut-off; thence with the
38 northern bank of Three Fork creek to the beginning.

CHAPTER 68

(Senate Bill No. 92—Mr. Yoho)

AN ACT to amend and re-enact sections two, three, four-*a*, seven, twenty-nine, thirty, thirty-five, thirty-seven, thirty-eight, forty, forty-one, forty-seven, forty-eight and fifty-one of chapter eighteen of the acts of legislature for the year one thousand nine hundred and fifteen as amended and re-enacted by chapter twelve of the acts of legislature for the year one thousand nine hundred and nineteen, and adding thereto additional sections to be known as two-*a*, three-*a*, and thirty-three-*a* relating to the charter of the city of Cameron, in the county of Marshall, granting to said city additional charter powers.

[Passed January 23, 1923. In effect from passage. Became a law without the approval of the Governor]

<p>SEC. 2-<i>a</i>. Boundaries of wards. 3. Officers. 3-<i>a</i>. Representation on council; qualification of councilmen; vacancies. 4-<i>a</i>. Elections; when held; officers to be elected; terms. 7. Term of office. 29. Clerk ex officio city assessor. 30. Clerk to prepare bills for license taxes, etc., section 33, chapter 18, acts of 1915 repealed.</p>	<p>Sec. 33-<i>a</i>. Salary chief of police. 35. Clerk ex officio collector. 37. Amends section 37 of chapter 18 of acts of 1915; striking out certain lines relative to salary. 38. Amends section 38, acts of 1915. 40. Water rents. 41. Street Commissioner. 47. Sidewalks. 48. Street paving. 51. Bonds; additional levy.</p>
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Be it enacted by the Legislature of West Virginia:

That section two, three, four-*a*, seven, twenty-nine, thirty, 2 thirty-five, thirty-seven, thirty-eight, forty, forty-one, forty- 3 seven, forty-eight and fifty-one of chapter eighteen of the 4 acts of the legislature of West Virginia for the year one thousand 5 nine hundred and fifteen, as amended and re-enacted by chapter 6 twelve of the acts of one thousand nine hundred and nineteen, 7 be amended and re-enacted so as to read as follows: and that 8 sections two-*a*, three-*a*, thirty-three-*a* be added thereto, the same 9 relating to the charter of the city of Cameron, county of Mar- 10 shall.

Section 2-*a*. The territory of said city is hereby divided in- 2 to three wards as follows:

3 *First Ward*—All that part of the city lying south of the 4 Baltimore & Ohio railroad right-of-way.

5 *Second Ward*—All that part of the city lying east of Bridge 6 street and North avenue and north of the Baltimore and Ohio 7 railroad right-of-way.

8 *Third Ward*—All that part of the city lying west of Bridge 9 street and North avenue and north of the Baltimore and Ohio 10 railroad right-of-way.

11 The council may change the different wards, but regard
12 shall be given to equality of population in making such
13 changes.

Officers.

Sec. 3. The officers of said city shall be mayor, clerk, chief
2 of police, and six councilmen. The clerk shall be *ex-officio* as-
3 sessor and collector, and the chief of police shall be *ex-officio*
4 street commissioner for said city. The said officers shall be
5 elected by the qualified voters of the said city. The mayor, clerk,
6 and the six councilmen shall constitute the common council of
7 said city, which council, may at its discretion, appoint a super-
8 tendent of water works, city solicitor and such other officers as
9 may be deemed necessary from time to time, and fix the term,
10 duties and compensation thereof. No person shall be eligible
11 to any elective office in said city unless he is a qualified voter
12 thereof, nor unless he has resided therein for at least one year
13 next preceding his election, nor who shall not have been assessed
14 during the current year for taxation with real estate or per-
15 sonal property of the value of at least five hundred dollars.

Sec. 3-a. Each ward shall be represented by two councilmen,
2 who shall be nominated and elected by the voters of the ward
3 they are to represent; but no person shall be a candidate for
4 councilman unless he is a *bona-fide* resident of the ward in
5 which he was elected shall vacate his office; and no person
6 shall be eligible to any city office unless he is a taxpayer and a
7 qualified voter thereof.

Sec. 4. The municipal authorities of said city shall consist
2 of the mayor, clerk, and six councilmen, who, together, shall
3 constitute a common council as herein before set out; and all
4 the corporate powers of said corporation shall be exercised by
5 said council, or under its direction, except where otherwise
6 provided herein.

Elections

Sec. 4-a. At the election to be held in the month of January
2 in the year one thousand nine hundred and twenty-four, the
3 mayor, clerk, and chief of police shall be elected for a term of
4 two years; three councilmen shall be elected for a term of two
5 years; and three councilmen for a term of four years, that is
6 to say, one councilman from each ward shall be elected for a
7 term of two years, and one councilman from each ward shall

8 be elected for a term of four years, and the term to be held
9 shall be determined by the number of votes each received, that
10 is to say, the candidate receiving the greatest number of votes
11 in his ward shall be elected for the long term and the candidate
12 receiving the next highest number of votes in his ward shall
13 be elected for the short term. After the election before men-
14 tioned, all councilmen shall be elected for a term of four years,
15 and the mayor, clerk, and chief of police shall be elected for
16 the terms hereinbefore provided.

Term of Office

Sec. 7. The term of office of the mayor, clerk, chief of police
2 and the councilmen shall begin on the first day of February next
3 succeeding their election and shall continue as hereinbefore pro-
4 vided. The appointive officers herein mentioned shall hold their
5 offices during the pleasure of the council. Any former incum-
6 bent shall be ineligible for reappointment unless he shall have
7 settled up the business of his former term or terms as far as
8 possible at the time such re-appointment is made.

Taxes

Sec. 29. The clerk shall, when the extended copies of the as-
2 sessor's books are completed and returned to the clerk of the
3 county court, have access to the same for the purpose of making
4 out tax bills of the taxes therein exxtended, and it shall be the
5 duty of the clerk, who shall be the *ex-officio* assessor of said city,
6 to make out all tax tickets, and, when the same have been ex-
7 amined, compared and approved by the finance committee of the
8 council and found to be correct, the said clerk, who is the *ex-*
9 *officio* collector, shall proceed to collect said taxes.

Sec. 30. The clerk shall prepare bills for all license taxes due
2 said city, whenever the same shall become due and payable, and
3 he shall then proceed to collect the same. The clerk shall ac-
4 count to the treasurer therefor, as required herein for other
5 collections. All provisions in section thirty-three of chapter
6 eighteen of the acts of the legislature of West Virginia, one
7 thousand nine hundred and fifteen, in conflict herewith are
8 hereby repealed.

9 The said clerk shall keep his office at the office of the mayor,
10 unless otherwise ordered by council, and shall keep his office
11 open for the transaction of business during such business hours
12 as may be necessary for the proper performance of his several

13 duties. It shall be his duty to prepare the annual financial
14 statement of said city, and when approved by the committee on
15 finance, cause same to be published in some newspaper pub-
16 lished in said city; and if there be no newspaper so published,
17 then in some newspaper published in Marshall county, West
18 Virginia.

19 The said clerk shall receive such compensation as may be
20 fixed by council from term to term, which shall not be less than
21 six hundred nor more than one thousand dollars per annum.

Chief of Police

Sec. 33-a. The chief of police shall receive such compensation
2 as may be fixed by council from term to term, which shall not be
3 less than one thousand dollars nor more than sixteen hundred
4 dollars per annum.

Clerk—Ex-Officio Collector

Sec. 35. The clerk as *ex-officio* collector, shall give notice that
2 the tax bills are in his hands for collection, stating the penalty
3 for non-payment thereof and the time and the place where the
4 same may be paid, which notice shall be given by publication in
5 some newspaper published in said city, or in Marshall county
6 should there be none in said city, and by notices carefully posted
7 in public places therein; to all persons who shall pay their taxes
8 in full before the first day of December next succeeding said
9 levy, there shall be allowed a discount of two and one-half per
10 centum on the whole amount of taxes so paid, and not otherwise.
11 The said collector shall proceed immediately to collect from
12 the persons so charged, by distraint or otherwise, the entire
13 amount of taxes with which they are severally charged therein,
14 and remaining unpaid on the first day of January next suc-
15 ceeding said levy, with interest at the rate of one per centum
16 per month from said first day of January until they are fully
17 paid.

Sec. 37. Amending section thirty-seven of chapter eight-
2 een of the acts of the legislature of West Virginia one thou-
3 sand nine hundred and fifteen, by striking out the words "chief
4 of police" in line thirty-one and substituting therefor the
5 word "clerk"; and by striking out lines thirty-four, thirty-five,
6 thirty-six and thirty-seven, relating to salary.

Sec. 38. Section thirty-eight of the acts of the legislature
2 of West Virginia one thousand nine hundred and fifteen chap-

3 ter eighteen, shall be amended as follows: The words "chief of
4 police" in line number one shall be stricken out and the word
5 "clerk" substituted therefor.

Water Rents

Sec. 40. All water rents due said city shall be ascertained
2 from time to time as may now or hereafter be provided by coun-
3 cil by proper ordinance or order passed thereby, and the bills
4 for such water rent shall be prepared by the clerk and col-
5 lected by him. The clerk shall account to the treasurer for all
6 the collections.

Street Commissioner

Sec. 41. The chief of police shall be *ex-officio* street com-
2 missioner for said city, and he shall perform such duties as
3 may now or hereafter, by ordinance, be imposed upon him.

Sidewalks

Sec. 47. The council may lay out and establish sidewalks or
2 footways on the streets, avenues or alleys of the said city, and
3 may require the same to be paved with brick, stone or other suit-
4 able material, as the council may determine, under the direction
5 of the chief of police, by the owners respectively of the lots or
6 fractional parts of lots, facing or abutting on such sidewalks or
7 footways; and, if the owner of any such sidewalks or footwalk,
8 or of the real property next adjacent thereto, shall fail or re-
9 fuse to pave the same in the manner or within the time requir-
10 ed by the council, it shall be the duty of the council to cause the
11 same to be done at the expense of the city, and to assess the
12 amount of such expense upon such owners, and if the said as-
13 sessment be not paid within thirty days from the date of said
14 notice, the clerk shall turn the same over to the city collec-
15 tor for collection, and said collection may be made in the same
16 manner as is now provided for the collection of city taxes, or
17 by an action in the circuit court of Marshall county, West
18 Virginia, or before any justice of the peace of said county
19 having jurisdiction in the matter, and a judgment obtained be-
20 fore said court of justice may be recorded in the office of the
21 clerk of the county court of Marshall county, West Virginia, in
22 the judgment lien docket and may be enforced in the same

23 manner as other judgments against real estate are now enforced.
24 The provisions of this section shall be applicable to needed
25 repairs to any of the sidewalks of the city, and to the sub-
26 stitution of new sidewalks for any which may have been here-
27 tofore, or which may be hereafter laid and completed, and
28 which may be deemed insufficient.

Street Paving.

Sec. 48. The council shall have authority to provide that
2 any street, avenue or alley, or any portion thereof, between the
3 curbstones, shall be macadamized or paved with brick, coble-
4 stones, or other suitable material, upon the lowest and best terms
5 obtainable, after advertisement for two weeks in one or more
6 newspapers in the city, for bids and proposals for the work;
7 and two-thirds of the cost of such macadamizing or paving, from
8 curb to curb of such streets, avenue, or alley, shall be assessed
9 to the owners of lots, or fractional parts of lots, fronting or
10 abutting on such street, avenue or alley, that is to say: The
11 property owners on each side of said street, avenue or alley
12 shall be assessed one-third of the cost of said improvements, to
13 each property owner or sum proportionate to the distance, or
14 extent in feet by him owned, and one-third of the sum so
15 assessed shall be paid by each property owner to the city
16 within thirty days after the completion of the work, and the
17 remainder in two equal installments in six and twelve months
18 thereafter, with interest thereon at the rate of six per centum
19 per annum, or at such other times as the council may prescribe.
20 The remaining one-third of such expense, as well as the ex-
21 pense of macadamizing or paving at the intersections of streets,
22 avenues and alleys shall be defrayed by the city. The council
23 shall cause a notice to be published for two weeks in some
24 newspaper published in said city, showing the owners of the
25 property and the number of feet fronting on said improve-
26 ments, as well as the time and the place where the said council
27 will proceed to fix said assessments as above provided, and giv-
28 ing notice to any person having an interest in said property to
29 appear and show cause, if any he can, why such assessment shall
30 not be made; and the council may, in making such assessments,
31 consider the petition of any person or corporation relative to
32 the inequality of said assessment, and may equalize and adjust
33 the same. And if the said installment be not paid within thirty

34 days from the date it falls due, the clerk of the said city shall
35 cause a memorandum showing the name of the owner of said
36 lot, a description of the lot, and the amount of the assessment,
37 to be filed in the office of the clerk of the county court of Mar-
38 shall county, which shall be entered of record in the judgment
39 lien docket in said office, and the same shall constitute a lien
40 on such property, which may be enforced by a suit in the name
41 of the said city, in the circuit court of Marshall county, as
42 other liens against real estate are enforced; and upon payment
43 of said installment, the clerk shall issue to the person entitled
44 thereto a release of said lien. The provisions of this section
45 shall also apply to needed repairs to any of the payments of
46 the said city, and to the substitution of new payments for any
47 which may have heretofore, or which may be hereafter laid,
48 and completed, and which may be deemed insufficient. The
49 council of said city may cause an additional levy, to be made
50 annually, of fifteen cents on the one hundred dollars valua-
51 tion of all the real and personal property within said city, or
52 subject to taxation, for the purpose of defraying the expense of
53 paving the streets, avenues and alleys of the said city as herein
54 provided; such levy shall be made at the time the general levy
55 is laid, and shall be collected in like manner, but a separate
56 account shall be kept of the receipts and expenditures of such
57 fund.

Bonds—Additional Levy

Sec. 51. Section fifty-one of chapter eighteen of the acts of
2 the legislature of West Virginia, one thousand nine hundred and
3 fifteen, shall be amended as follows: The words "for four con-
4 secutive weeks" shall be stricken out, in lines twenty and twen-
5 ty-one, and the words "for two consecutive weeks" substituted
6 therefor.

CHAPTER 69

(Senate Bill No. 103—Mr. White of Mingo)

AN ACT to amend and re-enact section twenty-eight of chapter
fourteen of the acts of the regular session of the legislature
of one thousand nine hundred and fifteen, and to add section
twenty-eight-a to said chapter.

[Passed April 17, 1923. In effect from passage. Approved by the Governor
April 26, 1923]

Sec. 28. Sidewalks, street paving, etc. 28-a. Petition of owners asking for	Improvements; cost; how assessed; how collected; acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That section twenty-eight of chapter fourteen of the acts of the regular session of the legislature of one thousand nine hundred and fifteen be amended and re-enacted, and section twenty-eight *a* be added thereto, as follows:

Section 28. If the owner or occupant of the real property
2 abutting on any sidewalk, footway or gutter in such city, shall
3 fail or refuse to curb, pave or keep the same clean, in the man-
4 ner or within the time required by the commission, it shall be
5 the duty of the commission to cause the same to be done at the
6 expense of the city, and to assess the amount of such expense
7 on such property, or upon the owner or occupant thereof, and
8 the same may be collected by the collector in the manner pro-
9 vided herein for the collection of city taxes.

10 The commission may, if it so elect, upon the refusal of the
11 owner or occupant to curb, pave or keep clean any sidewalk,
12 footway or gutter as aforesaid, let said work to contract, and
13 certificates may be issued for the amount of said assessments
14 which may be sold to the contractor doing the workk, or other
15 person, in full of the total cost of said work; *provided*, the city
16 in negotiating and selling such certificates shall not be held as
17 guarantor or in any way liable for payment thereof, except
18 upon the direct action of the commission as expressed by reso-
19 lution of record before such sale. Said certificates shall be in
20 such form and be payable at such time, with or without interest,
21 as the commission may, by ordinance, direct. If the said certi-
22 ficates remain unpaid for more than sixty days after they be-
23 come due and payable, it shall be the duty of the
24 clerk of the commission upon being requested so to do
25 by the owner of said certificates to certify said as-
26 sessments to the clerk of the county court of Mingo
27 county, who shall record and index the same as other
28 liens of like kind are recorded and indexed, and the same
29 shall be and remain a lien upon the real estate against which
30 said assessments are made; and, said assessments shall, in addi-
31 tion, be the personal obligation or debt of the owner or occu-
32 pant of said property, and said lien and said debt or obligation
33 may be enforced in the name of the owner of said certificates in
34 like manner as other liens and debts are enforced.

35 Before letting such work to contract the commission shall ad-
36 vertise for bids for a reasonable length of time to be fixed in
37 ordinance directing said work, and the same shall be awarded
38 to the lowest responsible bidder therefor. Such work shall be
39 done in accordance with plans and specifications made by the
40 city engineer and shall be done under the supervision of the
41 said engineer.

42 If the owner or occupant of any such lot or land shall
43 be required by the commission to curb, pave or keep clean any
44 sidewalks, footway or gutter in the city, written notice shall be
45 given such owner or occupant in a manner to be provided by
46 ordinance, and neglect or refusal of such owner or occupant to
47 do the work in the manner and within the time required by the
48 commission, as set out or referred to in said notice, shall be an
49 offense and may be punished as provided by ordinance.

Sec. 28-a. Upon the petition, in writing, of the persons
2 owning the greatest amount of frontage of the lots
3 abutting on any street or alley, between any two cross streets,
4 or between a cross street and an alley, the commission of the
5 city, by a lawful majority thereof, may order such part of any
6 street or alley to be paved between the sidewalks with cobble
7 stone, brick, belgian blocks, asphalt, or other suitable material,
8 from one of such cross streets or alleys to the other, under such
9 regulations as may be fixed by ordinance duly passed by the
10 commission; two-thirds of the cost of such paving shall be as-
11 sessed to the owners of the lots or fractional parts of lots
12 abutting on that part of the street or alley so paved in propor-
13 tion to the distance such lot or part of a lot abuts on such
14 street or alley, and the remaining one-third of the cost of such
15 paving shall be paid by the city. In making such assessments
16 the basis shall be the cost of paving that part of the street or
17 alley on which the property lies, included between the adjoin-
18 ing cross streets or alleys, and the amounts assessed against the
19 owners of each lot or fractional part of a lot, shall be in the pro-
20 portion which the frontage of such lot or part of lot bears to
21 the whole cost of paving said street or alley between said cross
22 streets or alleys as aforesaid; and the same may be collected in
23 in the manner provided herein for the collection of city taxes.
24 All acts and parts of acts inconsistent herewith, are hereby
25 repealed.

CHAPTER 70

(Senate Bill No. 105—Mr. Reynolds)

AN ACT to amend and re-enact section two of article two, section three of article three, section four of article four, section ten of article seven, sections fourteen and fifteen of article eight and section twenty-nine of article eighteen of chapter seventy-eight of the acts of the legislature of West Virginia for the year one thousand nine hundred and thirteen relating to the charter of the city of Piedmont.

[Passed April 17, 1923. In effect from passage. Approved by the Governor April 25, 1923]

<p>SEC.</p> <p>2. Corporate limits.</p> <p>3. Municipal authorities; council.</p> <p>4. Officers; appointment by council.</p> <p>10. Elections; registration of voters.</p> <p>14. Election and terms of councilmen.</p>	<p>SEC.</p> <p>15. Eligibility of councilmen.</p> <p>29. City clerk; term, bond, duties; custodian of records; to make assessments; to be police clerk, collector and treasurer; other duties; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

That section two of article two, section three of article three, section four of article four, section ten of article seven, sections fourteen and fifteen of article eight, and section twenty-nine of article eighteen of chapter seventy-eight of the acts of the legislature of West Virginia for one thousand nine hundred and thirteen, be amended and re-enacted so as to read as follows:

ARTICLE II.

Corporate Limits.

Section 2. The corporate limits of the city of Piedmont shall be as follows, to-wit:

3 Beginning at a stone marked "No. 1" on the south side of
 4 the county road leading from Piedmont to Keyser, Mineral
 5 county, West Virginia, said beginning being south 60° west 280
 6 feet from a stone in the center of the county road about 800
 7 feet east of where Odel spring run crosses the county road, it
 8 being the original beginning of the corporate line of the city of
 9 Piedmont as located in one thousand nine hundred and thirteen,
 10 and running thence with part of the first line of said survey;
 11 north 60° east 260 feet to a peg on the south side of the
 12 county road leading from Piedmont to Keyser and 20 feet from
 13 the center line of said road; thence north 29° west 630 feet;

14 north 43° 45' west 120 feet; north 33° 45' west 95 feet; north
15 19° 30' east 292 feet; north 4° 50' west 636 feet; north 6° west
16 132 feet; north 24° west 668 feet; north 18° west 315 feet to a
17 peg on the south side of the county road leading from Piedmont
18 to Keyser and in the center of alley, 20
19 feet from the center of said county road; thence across said
20 road north 72° east 40 feet to an iron peg; south 18° east 314
21 feet; south 28° 30' east 120 feet; south 24° 30' east 568 feet:
22 south 10° 45' east 130 feet; south 5° 40' east 645 feet; south
23 16° 30' west 278 feet; south 32° east 178 feet; south 27° 30' east
24 626 feet to a peg on the north side of the county road leading
25 from Piedmont to Keyser at the end of 300 feet on the first
26 line of the corporate line as surveyed in one thousand nine hun-
27 dred and thirteen thence with the lines of said survey north 60°
28 east 364 feet to the Potomac river, crossing the Baltimore and
29 Ohio railroad at 295 feet, and running thence with the Potomac
30 river north 15° 35' west 485 feet; north 3° 30' east 760 feet;
31 north 4° 30' west 208.7 feet; north 10° 24' west 463.5 feet;
32 north 2° 31' east 169.1 feet; north 6° 14' west 97.9 feet; north
33 9° 55' west 158.6 feet; north 9° 40' west 251.3 feet; north 22°
34 37' west 329.7 feet; north 24° 51' west 491.1 feet; north 52°
35 25' west 373.4 feet; north 71° 30' west 140.1 feet; south 80° 32'
36 west 296.9 feet; north 79° 20' west 265.2 feet; north 62° 39'
37 west 137.4 feet; north 79° 24' west 107.5 feet; north 59° 15'
38 west 594 feet; north 54° 5' west 112.7 feet; north 9° 32' west
39 361.4 feet; north 16° 38' west 182 feet; north 21° 44' west 513
40 feet; north 31° 58' west 258.5 feet; north 53° 37' west 132.8
41 feet—(at 70 feet center of abutment of Piedmont and Western-
42 port bridge)—north 69° 48' west 115 feet—(at 100 feet center
43 of abutment of Cumberland and Pennsylvania railroad bridge)
44 —north 86° 49' west 303.3feet; south 83° 48' west 373.4 feet;
45 south 72° 21' west 288 feet; south 82° 41' west 79 feet; south
46 60° 57' west 198.4 feet; south 48° 49' west 499.1 feet; south 32°
47 44' west 409 feet; south 9° 46' west 412.3 feet; south 8° 49' west
48 499.8 feet; south 11° 27' west 646 feet—(at 15 feet center of
49 abutment Piedmont and Luke bridge; thence leaving the Poto-
50 mac river south 55° 3' east 680 feet to a stone marked "36"
51 near the old mine opening on hill (at 50 feet on this line crosses
52 the Baltimore and Ohio railroad tracks); north 76° east 1700
53 feet to a ston; south 35° east 2200 feet to a stone; north 22° west
54 20 feet from a maple, (six notches) at 614 feet locust line; at

55 1235 feet, white oak 7 feet to right; south 32° east 1079 feet to a
56 stone on the west side of the road near Odel Spring run, also
57 south 71° west 15 feet from a maple, (six notches); at 747 feet
58 Fire Clay tramroad; at 1020 feet Odel Spring run; thence south
59 41° east 791 feet to the beginning.

ARTICLE III.

Municipal Authorities.

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

ARTICLE IV.

Officers.

Sec. 4. In addition to the municipal authorities mentioned
2 in this act, the said city of Piedmont shall have a city clerk,
3 who shall be appointed by the city council, who shall perform
4 the duties of a city treasurer, sergeant and recorder as defined
5 in section twenty-nine of article eighteen as well as a chief of
6 police, building inspector, who may be one of the council, a po-
7 lice judge who shall be the mayor, a city attorney, a health
8 commissioner, an auditor and such other officers and agents as
9 the council may in its discretion from time to time create, ap-
10 point or employ, all of whom shall be appointed by the city
11 council.

ARTICLE VII.

Elections.

Sec. 10. The council may by ordinance provide such regula-
2 tions for the registration of voters as the state law may re-
3 quire.

ARTICLE VIII.

Election of Officers.

Sec. 14. On the second Monday in May, one thousand nine
2 hundred and fourteen, there shall be elected by the qualified
3 voters of the city three councilmen, the two receiving the greater
4 number of votes to hold office from the first day of June, one
5 thousand nine hundred and fourteen until the first day of

6 June, one thousand nine hundred and sixteen, and the one
7 receiving the least number of votes shall hold office from the
8 first day of June, one thousand nine hundred and fourteen
9 until the first day of June, one thousand nine hundred and
10 fifteen, or until their successors are elected and qualified. Be-
11 ginning with the first election held under this act, which will
12 be on the second Monday in May, one thousand nine hundred
13 and fourteen, and every year thereafter, there shall be elected
14 three councilmen by the qualified voters of the city, the two
15 councilmen receiving the highest or greater number of votes to
16 hold office for a term of two years, and the one receiving the
17 least number of votes to hold office for the term of one year;
18 and so on every year thereafter. The officers of the city elected
19 under the old charter and at the election held in the year one
20 thousand nine hundred and thirteen shall hold over until their
21 successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of council-
2 men except he be assessed with and own at least three hundred
3 dollars' worth of real or personal property, and be a citizen en-
4 titled to vote at the election at which he is elected.

ARTICLE XVIII.

Duties of the City Clerk.

Sec. 29. The city clerk shall serve for a term of one year,
2 unless sponer removed for cause. He shall, before entering
3 upon the discharge of his duties, as such clerk, take and sub-
4 scribe to the oath of his office which is prescribed for other
5 city officials, and shall execute such bond as shall be fixed by
6 the council, which bond shall be approved by the council and
7 recorded in its proceedings and the same filed.

8 In addition to all the other duties prescribed for the city
9 clerk he shall perform all the duties now performed by the
10 city recorder, and the city clerk shall keep the records of the
11 council, and he shall be present at all regular and special
12 meetings of that body. It shall be his duty to properly record
13 in a well-bound book all the proceedings of the council, as
14 well as a complete record of all ordinances, franchises, bonds,
15 permits and resolutions adopted or passed by the council, and
16 to properly index the same, for the convenience and inspection
17 of the council or any city official or taxpayer.

18 Before any business at any regular meeting of the council
19 is undertaken it shall be the duty of the clerk to read pub-
20 licly to the council the minutes of all regular or special meet-
21 ings of that body, not theretofore read or approved, and upon
22 approval of the same by the council the signatures of the
23 mayor and clerk shall forthwith be affixed. All records of the
24 council so approved and signed or duly authenticated copy
25 thereof, signed by the clerk and under the seal of the city
26 shall be admitted as evidence in any proper case in any
27 court of this state.

28 The city clerk, except as may be otherwise herein provided,
29 shall be the custodian of the records and papers of the city
30 and the seal of the city, which shall be kept by him at his
31 office, and the records and papers shall be opened to public
32 inspection at all proper hours. He shall, acting under exist-
33 ing laws in so far as they are not inconsistent with this act,
34 perform such duties relating to all city elections held under
35 this act, as the clerks of the circuit court or county courts per-
36 form, under state laws, in relation to the holding of general
37 or special elections; and he shall likewise be the custodian of
38 all registration books, ballot boxes, ballots, tally sheets, and all
39 other papers pertaining to all municipal elections.

40 The city clerk shall have power within the municipality to
41 administer oaths and take acknowledgments of deeds and other
42 instruments required by law to be acknowledged, in the same
43 manner and with like effect and under the same penalties as
44 notaries public, justices of the peace and other officers of the
45 state who are authorized to administer oaths or take ac-
46 knowledgments under state laws.

47 It shall be the duty of the city clerk, who shall be the as-
48 sessor, to make an assessment of the property within the city
49 subject to taxation, substantially in the manner and form in
50 which assessments are made by the assessor of the county, and
51 return the same to the council on or before the first day of
52 August in each year, and for this purpose he shall have all
53 the powers conferred by law on county assessors. He shall
54 also list the number of dogs in the city and the names of the
55 persons owning the same, which list shall be returned to the
56 council. In order to aid the said council in ascertaining the
57 property subject to taxation by said city, the city clerk (who
58 shall act as assessor) of said city shall have access to all books

59 and public records of said county without expense to said city
60 or assessor, and he shall also have the same power and be sub-
61 ject to the same penalties in ascertaining and assessing prop-
62 erty and subjects of taxation in said city as are granted and
63 imposed upon the county assessors throughout the state by the
64 state law, and the council shall also have authority to pre-
65 scribe by order such other rules and regulations as may be
66 necessary to enable and require such assessor to ascertain and
67 properly assess all property liable to be taxed by said city so
68 that such assessments and taxation shall be uniform, and to
69 enforce such ordinances by reasonable fines and penalties.
70 The city clerk shall have an office in the city hall, council
71 chamber or such other place as the council shall designate and
72 provide, and he shall keep his office open for at least four con-
73 secutive hours in the forenoon and four consecutive hours in
74 the afternoon of each day.

75 In addition to the other duties of the city clerk as herein
76 set forth he shall, whenever required by the mayor, attend the
77 police court and attend to all the duties as clerk of the police
78 court of the city. In the absence of the mayor or police judge,
79 he shall exercise the functions of the police judge and he shall
80 perform all other duties required of him by order or by ordi-
81 nance of the council.

82 In addition to the other duties to be performed by the city
83 clerk he shall also be the city collector, charged with the duty
84 of collecting all taxes, levies, assessments, water rents and all
85 other funds due the city, and as such collector shall have and
86 exercise all of the rights, authority and powers conferred upon
87 town sergeants by the general law of the state with reference
88 to the collection of taxes and funds of cities, towns and villages,
89 and upon sheriffs with reference to the collection of state and
90 county taxes and funds. He shall at least once in each week,
91 or oftener if the council so require, submit a report of all
92 moneys received by him as such collector.

93 In addition to these duties of the said city clerk he shall
94 also act as treasurer of the city of Piedmont and shall receive
95 and account for all moneys from all sources of municipal
96 revenue, all license taxes and fees shall be paid to him direct
97 by the person to whom such license is issued, and no license
98 shall be valid without the receipt of the city clerk for such
99 tax and fees endorsed thereon. All officers and agents of the

100 city, authorized to receive money for the city, or revenues
101 thereof, from any source whatsoever, shall pay the same over
102 to the city clerk within one week after the receipt thereof or
103 sooner if required by the council.

104 The city clerk shall keep the funds of the city in some bank
105 or banks within the city, which shall pay to the city three per
106 centum or more per annum interest on such deposits, payable
107 quarterly, based on the average daily balance on such funds
108 in all accounts. If no bank within the city is willing at any
109 time to receive the deposits of the city clerk and to pay such
110 interest thereon, the city clerk shall report this fact to the
111 council, which shall thereupon designate a bank or banks in
112 which he shall deposit such funds for the time being and until
113 some bank in the city will receive deposits at the rate of inter-
114 est so fixed.

115 Said bank or banks shall give bond if required by the coun-
116 cil in the penalty prescribed by the council, and with sureties
117 to be approved by the council conditioned for the prompt
118 payment, whenever lawfully required, of all public moneys, or
119 parts thereof which may be deposited with them.

120 The city clerk shall pay all warrants or other proper orders
121 legally drawn and presented, out of any moneys at the time
122 in the fund on which such warrant or order is drawn, but no
123 money shall be paid by him except as the same shall have been
124 appropriated by the council and upon an order signed by the
125 mayor and city clerk.

126 If no money is in the fund with which to pay such warrant
127 or order, the city clerk shall endorse on the back thereof the
128 words "no funds" and affix the date of such endorsement, and
129 shall preserve a record of such endorsement in his office. The
130 city clerk shall perform any other duties which the council
131 may from time to time prescribe and which are not inconsistent
132 with the general scope of his duties.

133 Before entering upon the duties of his office the city clerk
134 shall give the bond hereinbefore required, payable to the city
135 of Piedmont in the penalty of not less than five thousand dol-
136 lars, conditioned for the faithful performance of the duties of
137 the office of city clerk, collector, treasurer, recorder and police
138 judge and to account for and pay over as required by law all
139 moneys which may come into his hands by virtue of any and
140 all of said offices, and shall be chargeable with all of

141 the city taxes, levies, assessments, rents and water rents, from
142 the time the bills therefor are required to be made up and
143 collected, and with all moneys of the city, including fines, fees
144 and penalties that may come into his hands. The city clerk
145 shall receive no fees or commission for his services, but shall
146 account to the city for all fees received by him. And in ad-
147 dition to the report herein required he shall at the first stated
148 meeting of the council in each month make a monthly report
149 to the council of all moneys and credits coming to his hands as
150 city clerk, recorder, police judge, treasurer and collector and
151 he shall publish once in every six months a detailed itemized
152 statement of all receipts and expenses of the city for the pre-
153 ceding six months.

154 The city clerk may appoint deputies and assistants, with
155 the consent and approval of the council, as the duties of his
156 office render necessary. The deputies shall take the oath re-
157 quired of the city clerk and shall give such bond as the clerk
158 and the council may require, but such deputies or assistants
159 shall not perform any duties as police judge in the absence of
160 the mayor.

161 The salary fixed by the council for the city clerk shall not be
162 increased or diminished during his term of office and shall be
163 deemed to include all the services of all deputies, clerks, assist-
164 ants or agents employed by him and no additional allowance
165 shall be made for or on account of any services so rendered by
166 the city clerk as herein enumerated and set forth.

167 The duties of the sergeant, treasurer, recorder and those of
168 the city auditor relating to assessments and the preparation of
169 the tax books for the city are intended by this section to be
170 combined and transferred to the office of the city clerk hereby
171 created and all such duties heretofore and now performed by
172 said officers shall from the time of this act takes effect devolve
173 upon and be performed by the city clerk.

173 All acts or parts of acts and provisions of the charter of the
175 city of Piedmont inconsistent herewith are hereby repealed.

CHAPTER 71

(Senate Bill No. 157—Mr. Byrer)

AN ACT to amend and re-enact chapter thirteen of the acts of the legislature of one thousand nine hundred and five, as amended by chapter seven of the acts of the legislature of one thousand

nine hundred and seven, and as amended by chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, concerning the charter of the city of Philippi.

[Passed April 17, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.	SEC.
1. Corporate name, rights and powers.	21. Executions for fines and costs.
2. Corporate limits.	22. Jailer of Barbour county to receive prisoners.
3. Council to divide city into wards.	23. Police docket; contents thereof.
4. Municipal officers; how elected, qualifications.	24. Appeal from judgment of mayor to circuit court.
5. Municipal authorities, powers vested in.	25. Same; transcript to be furnished.
6. Elections; qualifications of voters; contested elections; registration of voters; returns of elections; tie decided by lot.	26. Same; judgments upon.
7. Terms of office.	27. Same; in cases other than for violations of ordinances.
8. Oath of office.	28. Clerk; duties of.
9. Powers and duties of officers; bond of chief of police.	29. Same; duties and powers as to assessments.
10. Bonds of other officers.	30. Estimates and levy.
11. Removal from office; how vacancy filled.	31. Clerk; bond; to be custodian of moneys; other duties.
12. Meetings of Council; mayor to preside over; tie vote; quorum, etc.	32. Same; to extend levies and collect taxes; discount and interest on taxes.
13. Records and archives; copies by clerk <i>prima facie</i> evidence.	33. Same; to return list of delinquent taxes; accounts, etc.
14. Reading and correction of former proceedings; when yeas and nays to be entered.	34. Lien for city taxes; manner of enforcement.
15. Reading of ordinances, etc.; fines imposed by mayor; clerk to act in mayor's absence.	35. Chief of police; duties and bond.
16. Powers of council.	36. Arrests for violation of ordinances in sight of police officers; chief of police to execute process; other powers and duties and compensation therefor, surety liable for dereliction of duty.
17. Authority to make and enforce ordinances, etc.	37. City to have right of eminent domain.
18. Compensation of officers.	38. Council may issue bonds, etc.
19. Duties and powers of mayor.	39. Officers subject to this act until first Monday in April, 1924; acts in conflict repealed.
20. Procedure to enforce ordinances.	

Be it enacted by the Legislature of West Virginia:

That chapter thirteen of the acts of the legislature of one thousand nine hundred and five, as amended by chapter seven of the acts of the legislature of one thousand nine hundred and seven, and as amended by chapter eleven of the acts of the legislature of one thousand nine hundred and fifteen, be amended, re-enacted and consolidated so as to read as follows:

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

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

3 Beginning at a sugar tree on the east bank of the Tygarts
4 Valley river above the present brick and tile factory; thence
5 south sixty-four degrees fifteen minutes east, one thousand three
6 hundred and seven feet to a stake in the county road; thence
7 north seventy-four degrees forty minutes east, one thousand one
8 hundred and eighty-four feet to a stake; thence north forty-
9 eight degrees twenty-two minutes east, one thousand six hun-
10 dred and sixty-one feet to a chestnut in the W. G. Key's prop-
11 erty; thence north nine degrees nine minutes east, one thousand
12 five hundred and five feet to a stake in the divide of the farm
13 of J. Hop. Woods; thence north twenty-five degrees forty-two
14 minutes west, six hundred and twenty-nine feet to a stake; thence
15 north thirty-four degrees fifty-one minutes west, four thousand
16 five hundred and seventy feet to an apple tree in David Smith's
17 farm; thence north seventy-eight degrees twenty-seven minutes
18 west, six hundred and twenty-seven feet to a stake on the said
19 farm; thence south twenty-seven degrees forty-six minutes west,
20 seven hundred and fifty-seven feet to a pear tree; thence south
21 twenty-one degrees twenty-one minutes west, one thousand six
22 hundred and seventy feet to a stake in the Talbott farm; thence
23 south twenty-six degrees thirteen minutes east, one thousand
24 four hundred and sixty feet to a stone in the pike; thence
25 north nine degrees fifty-five minutes east, four hundred and
26 forty-four feet to the east bank of Tygarts Valley river; thence
27 with the low water mark following the meanders of the east
28 bank of said river to the beginning.

Sec. 3. The council of said city, shall divide the territory
2 of said city into wards, of not less than four, and may increase
3 the number of wards from time to time, due regard being had to
4 the increase of population, and shall, by ordinance, bound each
5 ward with reasonable certainty, and give to each ward equal
6 representation in the council.

Sec. 4. The officers of said city shall be a mayor, clerk, chief
2 of police, street commissioner, and one councilman from each
3 ward, and, until the council shall increase the wards in said
4 city to more than four, one councilman-at-large, and upon in-
5 creasing the wards in said city to five or more, the office of coun-
6 cilman-at-large shall cease. The mayor and clerk shall be
7 elected by the qualified voters of said city, as shall also the

8 councilman-at-large, as long as his office shall exist; but the
9 other councilmen shall be elected by the qualified voters of their
10 respective wards, and the other officers named shall be appointed
11 by the council and hold their offices during the pleasure of the
12 council, and shall be under the supervision and control of the
13 council who may prescribe rules for their regulations. No per-
14 son shall be eligible to any elective office unless he is a qualified
15 voter of the city, nor unless he has resided therein at least six
16 months before his election; and in the case of councilman, he
17 shall be a *bona fide* resident of the ward from which he is
18 elected; and no person shall be eligible as mayor unless he be a
19 freeholder, within said city; and should a councilman remove
20 from the ward in which he is elected, such removal shall vacate
21 his office.

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

Sec. 6. The first election hereunder shall be held on the
2 second Tuesday in March, one thousand nine hundred and
3 twenty-four, and annually thereafter. Every person who has
4 been a *bona fide* resident of the city for six months next pre-
5 ceding any election, and otherwise a qualified voter under the
6 constitution and laws of the state, shall be entitled to vote at
7 such election in the ward in which he resides. The election
8 shall be held, conducted and the result thereof ascertained,
9 certified, returned and determined under such rules and regula-
10 tions as may be prescribed by the council, which shall not be
11 inconsistent with the general laws of the state governing munici-
12 pal elections, and shall conform as nearly as practicable to such
13 laws. Contested elections shall conform as nearly as may be
14 to similar proceedings in the case of county and district officers.
15 Not more than five days before such election, or any annual
16 election thereafter in such city, the clerk shall ascertain who are
17 legal voters in such city or any ward thereof and shall make up
18 a list of the qualified voters for each ward and deliver same to
19 the officers appointed to hold such election in the respective
20 wards; but any qualified voter whose name is omitted from such
21 list may cast his vote by making oath before the election officers

22 that he is a qualified voter in such ward. The council shall be
23 the judge of the election, returns and qualifications of its own
24 members. In case two or more persons receive an equal num-
25 ber of votes for the same office, if such number be the highest
26 cast for such office, the council shall determine by lot which of
27 them shall be returned elected, and shall make their return ac-
28 cordingly.

Sec. 7. The term of the office of mayor, clerk, councilmen
2 and the chief of police shall begin on the first Monday in April
3 next succeeding their election or appointment, and, except as to
4 the chief of police, shall be for the term of one year, and until
5 their successors shall have been elected and qualified. The
6 chief of police, assistant police, street commissioner, and all
7 other officers, appointees, and committees, as the council may
8 deem it necessary to appoint, shall be appointed by the council
9 and hold their respective offices during the pleasure of the coun-
10 cil. The same person shall not be chosen clerk for more than
11 one term, unless he shall have fully settled up the business of
12 his former term.

Sec. 8. Every person elected or appointed to any office in
2 said city shall, within twenty days after his election or appoint-
3 ment and before entering upon the discharge of the duties
4 thereof, take and subscribe an oath that he will support the
5 constitution of the United States, and the constitution of this
6 state, and that he will well and truly perform the duties of his
7 office, to the best of his skill and ability, which may be done be-
8 fore the mayor, or clerk of said city, or before any person
9 authorized to administer oaths; and the same together with a
10 certificate of the officer administering the oath shall be filed
11 with the clerk of said city.

Sec. 9. The council shall by ordinance, consistent with this act
2 and general law, prescribe the powers, and define the duties of
3 the chief of police, and other policemen, and of all other officers
4 and appointees of the council; and the council shall require from
5 the chief of police a bond, with good security to be approved
6 by it, in the penalty of not less than one thousand dollars con-
7 ditioned for the faithful performance of his duties as such chief
8 of police, and to account for and turn over all moneys or
9 property coming into his hands as such officer, and the council
10 may require and take from the appointive officers, respectively,

11 bonds payable to the city, in its corporate name, with such se-
12 curity and in such penalties as may be deemed proper, condi-
13 tioned for the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to re-
3 ceive funds, assets or properties belonging to said city, or hav-
4 ing charge of the same, such bond, obligations or other writings
5 as may be deemed necessary and proper, to secure the faithful
6 performance of their several duties. All bonds, obligations or
7 other writings taken in pursuance of any of the provisions of
8 this act shall be made payable to the city of Philippi, with such
9 sureties and in such penalties as may be deemed proper, condi-
10 tioned for the faithful performance of their duties and for the
11 accounting for and paying over as required by law, all moneys
12 coming into their hands by virtue of their offices, and the re-
13 spective persons and their heirs, executors and assigns bound
14 thereby shall be subject to the same proceedings on said bond,
15 obligations and other writings for enforcing the conditions of
16 the terms thereof by motion or otherwise, before any court of
17 competent jurisdiction held in and for the county of Barbour
18 that collectors of county levies and other sureties are or shall
19 be subject to on their bond for enforcing the payment of the
20 county levies.

Sec. 11. The council shall have authority to remove from
2 office, any officer of the city, whether elected or appointed, or
3 any appointee, for misconduct or neglect of duty, intoxication,
4 or for any wilful violation of the laws of this state, or of the
5 city ordinances, by an affirmative vote of three-fourths of the
6 members of the council; but only after reasonable notice to such
7 officer or appointee, and a hearing of the charges preferred;
8 and any vacancy in office, however occasioned, may be filled by
9 the council for the unexpired term.

Sec. 12. The council shall fix the place and time of holding
2 its regular meetings; may provide for special and adjourned
3 meetings; prescribe rules and regulations not inconsistent here-
4 with for the transaction of business and for its own guidance and
5 government. The council shall be presided over at its meetings
6 by the mayor, or in his absence, by one of the councilmen se-
7 lected by a majority of the council present, who may vote on
8 any question as member of the council. The mayor shall have
9 a vote in case of a tie, and in no case shall the presiding officer

10 have more than one vote. A majority of the council shall be
11 necessary to constitute a quorum for the transaction of business.
12 No member of the council shall vote upon or take part in the
13 consideration of any proposition in which he is or may be
14 interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in
2 a well-bound book, to be called the "minute book", an accurate
3 record of all of its proceedings, ordinances, acts, orders and reso-
4 lutions, and in another to be called "ordinance book", accurate
5 copies of all general ordinances adopted by the council, both of
6 which shall be fully indexed and open to the inspection of any
7 one required to pay taxes to the city or who may be otherwise
8 interested. All oaths and bonds of officers of the city and all
9 papers of the council, shall be indorsed, filed and securely kept
10 by the clerk. All printed copies of such ordinances purporting
11 to be published under authority of the council, and transcripts
12 of such ordinances, acts, orders and resolutions certified by the
13 clerk, under the seal of the city, shall be deemed *prima facie*
14 correct, when sought to be used as evidence in any court, or be-
15 fore any justice.

Sec. 14. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the
4 call of any member the yeas and nays on any question shall be
5 taken and recorded in the minute book.

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

Sec. 16. The council of said city shall have the following
2 general powers enumerated in the sub-divisions of this section,
3 as follows:

4 (1) To lay off, open, close, vacate or maintain public
5 grounds, parks, public places, name and re-name the same, to
6 have control and supervision thereover, to protect the same
7 from damage or other injury by persons or property, to fix
8 fines and punishments for any injury thereto in violation of

9 any of the orders of said council, and to maintain good order
10 and prevent violations of the ordinances of said city therein
11 or thereon.

12 (2) To establish, maintain and regulate free public libra-
13 ries and reading rooms and to purchase books, papers, maps,
14 manuscripts and other proper things therefor, to receive dona-
15 tions and bequests of money or property for the same, in trust
16 or otherwise, and to pay the necessary expenses for establish-
17 ing, maintaining and regulating the same out of the funds for
18 general purposes; *provided*, such expenditure shall not exceed
19 one hundred dollars per annum unless by a unanimous vote
20 of all the members of the council.

21 (3) To protect divine worship within the limits of said city,
22 and to fix fines and punishment for disturbance of any as-
23 semblage of people, then and there, met for the worship of God,
24 to prohibit any interference with or disturbance of divine wor-
25 ship or an assemblage of people met together for the worship
26 of God by any person or persons loitering about the premises
27 or places where such worship is being had or such assemblage
28 is met, or from loitering in the public streets or public places
29 adjacent thereto in such manner as to interrupt such worship.

30 (4) To acquire either by purchase, condemnation or any
31 other modes provided by general law, ground within said city
32 for such streets and alleys as the council may deem proper; to
33 locate, lay off, vacate, close, open, alter, grade, straighten,
34 widen or narrow, pave or re-pave, construct and keep in good
35 repair, the roads, streets, alleys, pavements, sidewalks, cross-
36 walks, drains, viaducts and gutters therein, and such bridges
37 as may be owned or built by the said city, for the use of the
38 public or of any of the citizens thereof, and to improve and
39 light the same and to keep the same clean and free from ob-
40 struction of every kind; *provided*, the municipality shall not be
41 liable for, or responsible in damages for injuries to persons or
42 property caused by or from any defect or obstruction in or on
43 any street or alley within said city, that has been or may be
44 taken over by the state road commission, under and by virtue
45 of the laws of this state; nor shall said municipality be liable
46 in damages for injuries to persons or property caused by or
47 from a defect or obstruction in or on the plat of ground be-
47a tween the gutter or curb of any street and the paved or plank
48 sidewalks extending there along or between any such side-

49 walks and the property lying next adjacent thereto, unless the
50 municipality had actual notice of such defect or obstruction
51 prior to the time of the injury complained of; and, *provided*,
52 *further*, that where said city shall be required to respond in
53 damages by reason of injury to persons or property occasioned
54 by the failure of any abutting owner to so provide or keep
55 in repair any sidewalk along such property, after being noti-
56 fied by the council so to do, that such property owner shall be
57 liable to the city for any sum of money, costs and counsel fees
58 which it has been required to pay by reason thereof.

58a (5) To regulate the width of sidewalks and the streets and
58b the width and the care of the public grounds or grass plots
58c abutting thereon, and to order the sidewalks, footways, cross-
58d ways, drains and gutters to be curbed, paved, or re-paved and
59 kept in good order, free and clean, and to provide for the re-
60 moval of snow and ice therefrom, and for sprinkling the same
61 by the owners or occupants of the real property next adjacent
62 thereto, and to provide and enforce punishments for obstruct-
63 ing, injuring or preventing the free and proper use thereof,
64 and to provide and enforce fines and penalties for throwing
65 therein or thereon any paper, glass, rubbish, decaying sub-
66 stances or other things that would make said streets, sidewalks,
67 grass plots, crosswalks, drains, or gutters unsightly or un-
68 healthy.

69 (6) To regulate the use of the walks, highways, bridges,
70 streets, alleys and gutters and the rate of speed of travel
71 thereon, and to prevent and punish for fast riding or driving
72 thereon of any horse, bicycle, wheeled vehicle, wagon, steam or
73 electric or traction engine, motor car or automobile, and to
74 prevent injury to such streets, alleys, roads and highways
75 from overloaded or improperly loaded vehicles, and from
76 dragging logs or other matter therein, and to regulate the
77 speed of engines or trains or street cars upon or across any
78 such streets, alleys, highways, bridges, public places or any
79 other place where the council deems the public safety requires
80 such regulation.

81 (7) To regulate the planting, trimming and preservation
82 of shade trees, by persons and by corporations, in streets, al-
83 leys, roads, public grounds and places, and shall require the
84 owner of adjacent property to trim or remove any shade tree

85 or ornamental shrubbery or other tree that in the opinion of
86 the council is an obstruction to the streets, alleys, or sidewalks,
87 or a menace to public safety.

88 (8) The council shall have the right to require the owner
89 or occupier of any property in the city to keep his premises
90 clean and free from all matters that would endanger the health
91 of the city, and may require the removal of any waste paper or
92 waste material of any kind or character upon the private
93 property of any citizen or property owner that would cause
94 the spread of fire or when the council deems the same should
95 be removed; and may require the removal or straightening of
96 any fence, wire, pailings, or other material enclosing any lot,
97 when, in the opinion of the council, the same is dangerous or
98 obstructs or encroaches upon the streets, alleys or sidewalks;
99 *provided*, that in all such cases, if the owner or occupier of
100 such property fails to do any of the things enumerated in this
101 section required by the council, after notice by the council, the
102 council may take such action as may be necessary to perform
103 such acts and the expense thereof shall be charged to the
103-a property owner and collected as taxes are collected.

104 (9) To regulate the making of division fences of an un-
105 sightly nature and party walls by the owners of adjoining and
106 adjacent premises and lots, in so far as the same shall not be
106-a in conflict with general law.

107 (10) To regulate or require drainage by the owner or
108 occupier of any lot or other real estate, by proper drains,
109 ditches, and sewers, and to require the owner or occupier of
110 any lot to fill the same, at his own expense, so that water will
111 not collect in a body thereon, or so the same will not become
112 a menace to public health.

113 (11) To regulate or prohibit street carnivals, or street
114 fairs, or street parades, advertising exhibition, or other ex-
115 hibitions thereon, or the exhibition of goods, wares, merchan-
116 dise, material or artificial curiosities upon any street, side-
117 sidewalk, alley or public place of the said town.

118 (12) To regulate or prohibit the ringing of bells, blowing
119 of steam whistles, or use of hand-organs, or other instru-
120 ments of an annoying character, or other music of itinerant
121 performers in the streets, or public speaking and preaching in
122 the streets, roads, parks, or public places of the municipality.

123 (13) To license, regulate or prohibit auctioneering.

124 (14) To license, regulate or prohibit the sale of goods,
125 wares, merchandise, drugs or medicine on the streets or other
126 public places.

127 (15) To prevent the illegal sale, offering or exposing for
128 sale, or advertising of spirituous liquors, wine, porter, ale,
129 beer, or drinks of a like nature.

130 (16) To prevent the illegal sale of tobacco, cigars, snuff,
131 or cigarettes, within said municipality, and to prevent the
132 smoking, by any person under twenty-one years of age, of any
133 cigarette, in any public building, or upon any public
134 grounds, street, alley, sidewalk or public place within said
135 city, and to fix fines and punishments for violations thereof.

136 (17) To regulate, control or prohibit runners for hotels,
137 boarding houses and eating houses, and to regulate draymen or
138 persons hauling or transporting for hire at and about the
139 railroad depots and stations and other public places and in an
140 assemblage of people within the said city.

141 (18) To regulate, assess and collect a license fee for the
142 said city for the doing of anything or business on which a
143 state license is required, subject to the exceptions provided by
144 general law.

145 (19) To provide, assess and collect a license tax from resi-
146 dents in said city who own and operate or run an automobile
147 therein, or from any person, whether a resident of said city or
148 not, who shall run or operate an automobile for hire, or keep
149 the same for hire within said city; *provided*, that any person,
150 not a resident of the said city, who shall run or operate an
151 automobile in said city, not for hire, for a longer period than
152 one month at any time, shall be liable to pay the license tax
153 assessed against resident automobile owners.

154 (20) To establish, when the council may deem proper, lo-
155 cate and keep in repair, market places, market houses, and
156 regulate markets, prescribe the time for holding the same, to
157 authorize the seizure thereat and destruction of any and all
158 such foods and drink products, as shall be found unwhole-
159 some, dangerous or offensive, and without recourse against the
160 municipality for its cost or value.

161 (21) To regulate the sale of food and drink products, milk,
162 fresh meats, fish and vegetables, and to provide penalties for
163 the sale of any such that are unwholesome or unfit for use.

164 (22) To regulate and provide for the weighing of hay, coal
165 and other articles for sale in the markets, or to residents of
166 said city.

167 (23) To require the merchants and other persons selling
168 goods, foods or materials that must be weighed, to keep correct
169 scales, to seize and destroy such as are found to be incorrect,
170 and not corrected after due and proper notice to the owner or
171 person using the same, without damage or expense to the
172 municipality for the value thereof.

173 (24) To prevent injury or annoyance to the public or in-
174 dividuals from anything dangerous, offensive or unwholesome.

175 (25) To regulate the keeping, handling and transporta-
176 tion of explosives and dangerous combustibles within the
177 municipality; and to regulate or prohibit the use of fire-
178 crackers, skyrockets, toy pistols, air rifles or guns, within the
179 said municipality.

180 (26) To regulate or prohibit the erection or operation, or
181 maintenance in what the council deems an improper locality
182 within said city, any blacksmith shop, livery stable, barn,
183 stable, cattle pen, poultry house, pig pen, privy, bill board,
184 sign board, gas or other engine, coal mine, coal plant, or coal
185 bin, or any other thing that may in the opinion of the coun-
186 cil be a menace to persons or property or public safety, or
187 that would injure private property or annoy citizens of said
188 city.

189 (27) To regulate or prohibit the use of walls or walks for
190 signs; to regulate or prevent the distribution or posting of
191 any sign, bill or other paper that, in the opinion of the council
192 or mayor, is indecent or immoral.

193 (28) To define by ordinance what shall constitute a
194 nuisance, and to abate all nuisances whether defined or not,
195 and to require the removal or abatement of any building, ob-
196 noxious business, sign board, bill board, signs, or other thing,
197 which in the opinion of the council is a nuisance.

198 (29) To regulate or prohibit the distribution of hand
199 bills, circulars and other advertisements of like kind, on the
200 streets, roads, alleys and public places, or the placing of
201 same in private yards, buildings or other structures, without
202 having first procured the consent of the owner or occupier of
203 such property.

204 (30) To regulate or prohibit within the municipality or
205 within one mile of its corporate limits, the erection or main-
206 tenance of any slaughter house, soap factory, glue factory,
207 lamp black factory, tannery, or other house, shop or factory
208 of like kind or character.

209 (31) To establish within said municipality public drinking
210 fountains and water troughs; and to regulate the time and
211 and place and manner of bathing in pools, streams and public
212 waters within the police jurisdiction of said municipal cor-
213 poration.

214 (32) To prevent hogs, cattle, sheep, horses, and other ani-
215 mals and fowls of all kinds, from going at large in the munici-
216 pality; and to establish and maintain places for their deten-
217 tion, make regulations respecting the same, appoint a pound
218 master and define his duties and provide for the sale of such
219 property impounded.

220 (33) To arrest, convict and punish any person for com-
221 mitting adultery or fornication, or for any lewd or lascivious
222 cohabitation within said city, and for keeping an assignation
223 house, house of ill fame, or for leasing or letting to any other
224 person any house or other building to be kept or used as such,
225 or for knowingly permitting any house, under the control or
226 owned by any person, to be used as an assignation house or
227 house of ill fame; and to convict and punish for frequenting,
228 entering or loitering in any assignation house or house of ill
229 fame within said municipality.

230 (34) To arrest, convict and punish any person for im-
231 porting, printing, publishing, selling, giving away, exhibiting,
232 or distributing any book, picture or device, or other thing con-
233 taining any obscene picture or language, or making any
234 indecent representation.

235 (35) To restrain, convict and punish vagrants, mendicants,
236 beggars, tramps, common prostitutes, and their associates, and
237 drunken or disorderly persons within the municipality, and
238 to provide for their arrest and manner of punishment.

239 (36) To prevent and prohibit the use of indecent or pro-
240 fane language within the corporate limits, and to provide and
241 fix punishment therefor.

242 (37) To prevent and prohibit any tumult, riot, quarrel,
243 angry contention, or abusive language, and to prevent the use
244 of insulting epithets, assaults, assault and battery, and fix
245 fines and punishments therefor.

246 (38) To prevent and prohibit trespass upon private prop-
247 erty or the doing of anything which would annoy the owner
248 or occupier of any premises, and to fix and provide fines and
249 punishments therefor.

250 (39) To provide against danger or damages by fire, and
251 to that end, to require, when the council may think necessary,
252 an inspection of all the properties within the said city, and to
253 require the owner or occupier of any property in which a de-
254 fective or dangerous chimney or flue is found, to immediately
255 repair the same, and to prevent the use thereof until repaired
256 as required.

257 (40) To prohibit and prevent intoxication or drunkenness,
258 and the drinking of intoxicants in any public place, store,
259 street, or alley, and to fix fines and penalties therefor.

260 (41) To prohibit and punish for larceny where the amount
261 stolen is less than twenty dollars.

262 (42) To prohibit, prevent and punish for anything that is
263 against the good morals and common decency, or that would
264 tend to corruption, vice or crime.

265 (43) To protect the public schools in said city, and to pro-
266 hibit and prevent any disturbance thereof in and about the
267 buildings or upon the grounds, and to prevent injury, de-
268 struction or defacement of any school property or building.

269 (44) To establish a board of health and vest it with the
270 necessary power to maintain its object, and to fix fines and
271 penalties for any violation of its lawful orders.

272 (45) To establish quarantine, and to erect and maintain
273 pest houses and places of detention, and to make and enforce
274 necessary orders for controlling or preventing the spread
275 of infections and contagious diseases, and for abating
276 pestilences.

277 (46) To prohibit the bringing into the corporate limits by
278 railroads, carriers, persons, or in any manner, persons, who
279 are paupers or persons who are afflicted with contagious
280 diseases; to punish by fine or imprisonment, or both, any
281 person who shall bring into the corporate limits any such
282 pauper or person afflicted with contagious disease, knowing or
283 having reason to believe, at the time that such person is a
284 pauper or afflicted with such contagious disease, and to col-
285 lect and recover from any such railroad company, carrier, or

286 other person, the expense of keeping and maintaining such
287 pauper or diseased person, until such person can be lawfully
288 removed from the corporate limits.

289 (47) To provide for the poor of the municipality, and
290 to that end, the municipality may contract with the county
291 court of Barbour county, for the keeping of such poor person,
292 or any number of them, at the county poor house, at a price
293 and on such terms as may be agreed upon between the county
294 court and the proper municipal authorities.

295 (48) To authorize the taking up and providing for the
296 maintenance and safe keeping, and educating of (for such
297 period as may be deemed expedient) all children within said
298 city who are destitute of proper parental and other care.

299 (49) To arrest, convict and punish any person for cruelty,
300 unnecessarily or needlessly beating, torturing, mutilating,
301 killing, or overloading, or overdriving, or willfully depriving
302 necessary sustenance, any horse or other domestic animal.

303 (50) To regulate the hitching of horses within the cor-
304 porate limits, and the driving of cows and cattle through,
305 upon and along the streets and alleys of the said city.

306 (51) To prohibit, prevent and punish for the pollution of
307 any stream of water running into or through the said munici-
308 pality; and to prohibit and prevent the throwing into any
309 such stream of any trash, dirt, filth, offal, decayed substances
310 or matters, or anything that would make said water unhealthy
311 or unfit for domestic use.

312 (52) To prohibit, prevent and punish for any desecration
313 of the Sabbath day; prohibit the playing of any game, ex-
314 hibiting any show, theater, picture show, and the keeping
315 open of business places, except hotels, eating houses, boarding
316 houses, restaurants, drug stores and places where ice cream or
317 soft drinks are furnished.

318 (53) To restrain, prevent and punish fraudulent prac-
319 tices of any kind or character within the municipality.

320 (54) To arrest, convict and punish any person for
321 gambling or keeping any gaming table, commonly called "faro
322 bank," or table and chips used in playing such game; crap
323 crap table, chips or dice used in playing such game; or roulette
324 or the wheel, chips, or other equipment used in playing such
325 game; or keno table or table of like kind or device used in
326 playing the same; or table of like kind under any denomina-

327 tion, whether the game or games be played with cards, dice or
328 otherwise on which anything is bet or wagered, whether the
329 same be played in any public or private room or residence;
330 and may convict and punish any person who shall be a partner
331 or concerned in interest in the keeping of any such gambling
332 devices heretofore enumerated, or in any game played, such
333 as is prohibited hereby, or in keeping or maintaining any
334 gambling house or place of gambling for money or anything
335 of value; and shall have the right to destroy such gambling
336 paraphernalia as may be found in use on any such premises;
337 and any officer armed with a warrant for the arrest of any
338 person engaged in any such unlawful game or for the search
339 of any room in which gambling is suspected, or for the seizure
340 of any gambling paraphernalia, shall have the right to break
341 into any building, other than a private dwelling house, with-
342 out notice or demand, and into a private dwelling or room,
343 after demand and refusal to open same, to execute any such
344 warrant.

345 (55) To restrain all felons and persons guilty of offenses
346 against this state or the United States, and deliver them over
347 to the authorities or court having jurisdiction of the offense
348 whereof such persons is accused.

349 (56) To apprehend and punish any person who, without a
350 state license therefor, is guilty of carrying about his person,
351 within the municipality, any revolver or other pistol, dirk,
352 bowie knife, sling shot, razor, billy, metallic or other false
353 knuckle, or any other dangerous or deadly weapons of like
354 kind and character, as provided by chapter fifty-one of the
355 acts of the legislature of one thousand nine hundred and
356 nine, or any amendment thereof, and the punishment there-
357 for, whether for the first or other offenses, shall be that pre-
358 scribed by said chapter for any such person guilty under the
359 misdemeanor clause provided therein; *provided*, that the
360 mayor acting as ex-officio justice of the peace, may, after en-
361 forcing this ordinance, hold such offender to answer to an in-
362 dictment in the circuit court of Barbour county for such
363 offense, under the state law.

364 (57) To regulate the erection, construction, alteration and
365 repair of dwelling houses, buildings and other structures, with-
366 in the municipality, to issue permits therefor, and to compel
367 the numbering of such houses and buildings by the owners and

368 occupiers thereof; and to prescribe by ordinance the distance
369 which dwelling houses, and other structures in resident dis-
370 tricts shall be set back from the sidewalk.

371 (58) To regulate the hanging of doors, the construction
372 of stairways and elevators, and require fire escapes in theaters,
373 churches, school buildings, factories and other places deemed
374 necessary by the council.

375 (59) To establish fire limits and to regulate the construc-
376 tion of buildings, and designate materials to be used in the
377 construction of buildings within such limits.

378 (60) To regulate the building of fire walls, fire places,
379 chimneys, boilers, smoke stacks, stove pipes, and the burning
380 of waste paper, trash or other waste matter, in the corporate
381 limits.

382 (61) To require any building that, in the opinion of the
383 council, is dangerous, to be repaired, altered or removed by the
384 owners thereof, or put in a safe condition, such as the council
385 may approve, at the expense of such owner or occupier, and
386 to provide punishments for failure to comply with any order
387 of the council concerning same.

388 (62) To regulate the height, construction and inspection
389 of all new buildings hereafter erected, the alteration and re-
390 pair of any buildings now or hereafter erected, to require
391 permits to be obtained of the council therefor, and the sub-
392 mission of plans and specifications to the council for its ap-
393 proval; to regulate the limits within which it shall be lawful
394 to erect any steps, porticos, bay windows, awnings, signs,
395 columns, piers, or other projection or structural ornaments of
396 of any kind for the houses or buildings on any street or alley.

397 (63) To provide for the prevention and extinguishing of
398 fires, and for this purpose, the council may equip and govern
399 fire companies, prescribe the powers and duties of such compa-
400 nies and departments, and of the several officers thereof, or may
401 authorize volunteer fire companies, under such rules and reg-
402 ulations as the council may prescribe, and impose on those
403 who fail to obey any lawful command of the officer in charge
404 of any such company, or volunteer company, any penalty
405 which the council is authorized to impose for violation of
406 an ordinance, and to give authority to any such fire officer to
407 direct the pulling down or destruction of any building, fence,
408 wall or other thing, if such officer deem it necessary to prevent

409 the spreading of any fire which is being extinguished under
410 the direction of such officer, and without any liability on the
411 municipality for damages therefor.

412 (64) To protect the persons and property within the cor-
413 porate limits and preserve the peace and good order therein,
414 and for this purpose, to appoint, when necessary, a police
415 force and such other officers as may be deemed necessary;
416 and to provide a lockup, jail or other suitable place to confine
417 persons sentenced to imprisonment for violation of the
418 ordinances of said city; *provided, however*, that the jail of
419 Barbour county may be used for that purpose, if authorized
420 by the county court of said county.

421 (65) To require any person violating any of the
422 ordinances of said city, or any order for which a fine, im-
423 prisonment or both is imposed, to work upon the streets of
424 said city in case of nonpayment of said fine, until the same is
425 paid by such labor, or in case imprisonment is imposed, to
426 work upon the streets of said city during the term of such
427 imprisonment in addition to the payment of such fine, under
428 such regulations as the council may prescribe.

429 (66) To prescribe the powers, define the duties of the
430 officers appointed under the corporate authority, fix their
431 terms of service and compensation, if not otherwise prescribed
432 by this chapter, and to require and take from them bonds,
433 when deemed necessary, payable to the state of West Vir-
434 ginia, or the city of Philippi, with the sureties, and in such
435 penalties as may be prescribed, conditioned for the faithful
436 discharge of their respective duties; *provided*, that the com-
437 pensation of any officer, elected or appointed, shall not be
438 increased nor diminished during the time for which he is
439 elected or appointed, unless due notice of such intention is
440 first served on the officer interested.

441 (67) To make regulations with respect to, and have super-
442 vision and control over the erection, removal and relocation of
443 all telephone, telegraph, electric light or other poles within
444 said city, and the extension of wires, lines or poles by any
445 individuals or corporations.

446 (68) To require the extension of any electric light wire,
447 telephone lines, gas line, water system, or other public service
448 within said corporate limits, to meet the needs of the inhabi-

449 tants, when, in the opinion of the council, such extension is
450 necessary and justifiable.

451 (69) To grant and regulate all franchises in, upon, over
452 and under the streets, alleys and public ways of said city,
453 under such restrictions as shall be provided by ordinances and
454 general law; but no exclusive franchise shall be granted by said
455 city council to any individual or corporation; nor shall any
456 franchise be granted for a longer period than twenty years.

457 (70) To acquire, erect or authorize or prohibit the erec-
458 tion of gas works, electric light works or water works within
459 the city limits; to prevent injury to such works or the pollu-
460 tion of any gas or water used or intended to be used by the
461 public or by individuals; and to do all things necessary
462 to adequately supply said city and the inhabitants thereof
463 with pure, healthful and wholesome water; and to require
464 any company furnishing gas or electricity for sale or distri-
465 bution in said city, to furnish an adequate supply thereof; to
466 require gas fixtures, electric light wires, telephone wires and
467 all apparatuses used in connection with any of these, to be
468 kept in repair and suitable for use, and free from danger, so
469 far as practicable; to use, generate, distribute, sell and con-
470 trol electricity and gas for heat, light and power, and to
471 furnish light for the streets, highways, buildings, stores and
472 other places in and about said city.

473 (71) To require any gas company or person furnishing
474 gas for said city or the inhabitants thereof, to put in standard
475 meters for the measurement thereof, and may appoint a com-
476 petent person to inspect the meters and remove the same if
477 not standard and in good order; to prevent injury to any gas
478 works, electric light works, water system or any gas meter or
479-489 meter within said municipality.

490 (72) The council shall have the right to require of any
491 water company or person furnishing water for the use of the
492 inhabitants of said city, for hire, compensation or reward,
493 to obey any order of the council with respect to keeping the
494 reservoir or other source from which said water is furnished,
495 free from filth and in a good, clean condition, and may require
496 said water company to properly filter the water distributed
497 for use, and may require said company to put in such lines
498 as may be necessary to pump the said water into the reservoir
499 or other receptacle therefor, without pumping the same into

500 the main distributing lines, or in any other way or manner
501 effecting them; and may fix fines and penalties for any failure
502 on the part of any corporation, company or other person dis-
503 tributing water, to obey any order of the council or any
504 authorized officer of the town, respecting the same, or any
505 ordinance that may be enacted by the council relative
506 thereto.

507 (73) The council shall have the right to own, maintain,
508 operate and control any electric light plant within said city,
509 or to provide for, or purchase electric power and to use, gen-
510 erate, distribute, sell and control electricity and gas for heat,
511 light and power, and to furnish light for the streets, houses,
512 buildings, stores and other places in and about said city, and
513 for such electricity other than that furnished for the munici-
514 pality in lighting its streets or public places, it may charge
515 reasonable rates, but such rates in all cases shall be uniform;
516 and such electric light plant shall be under the supervision
517 and control of the council, and its wires, poles, distributing
518 system and machinery shall be kept in such repair so that as
519 little danger as possible shall arise therefrom, and so that same
520 will furnish an adequate supply of electricity to all persons
521 in said city desiring to use same.

522 (74) The council shall have the right to provide a sewer-
523 age system for said city, and may require the owner of any
524 property abutting upon any street or alley in which a sewer
525 has been laid or placed, to connect a sewer leading from his
526 or her property or lot into any public sewer which is located
527 in such street or alley adjoining the same, and if the owner or
528 occupier of said lot or property fails or refuses so to do, after
529 having been given a reasonable notice, the council may enter
530 upon such lot and construct such sewers, and may levy the
531 actual cost thereof against the lot upon which the same is built
532 and collect such costs from the owner of such lot in the same
533 manner as city or state taxes are collected; in addition thereto,
534 the council may punish by fine, or fine and imprisonment, any
535 person who permits any drainage from his residence or lot to
536 enter upon any street or upon any property after a sewer has
537 been placed in a street or alley adjacent to his property to
538 which he should connect, after notice has been given to him
539 by the council to make such connection.

540 (75) The council shall have the right to impose fines and
541 penalties for any interference with or destruction of the
542 sewer system or any part thereof in said city, or for the
543 destruction of or damage to any street, alley or sidewalk in
544 said city, or any improper use thereof; it shall have the right
545 to regulate or prevent the use of the sidewalk for bicycles,
546 push carts, sleds, tricycles, roller skates and other things of
547 like character, and to fix fines and penalties for violation of the
548 ordinances respecting same.

549 (76) To grant by ordinance or resolution permits for the
550 temporary use of such parts of its streets, roads, alleys and
551 public places as the council may deem proper and right to be
552 used in the construction, alteration or repair of buildings lo-
553 cated thereon, or for such other purposes as the council may
554 deem proper and right, and under such regulations and for
555 such time as the council may prescribe.

556 (77) The council may buy, lease and operate either with-
557 in or without the municipality, stone quarries, crushers and
558 land for said purposes or for the purpose of furnishing a sup-
559 ply of stone or other material suitable for macadamizing or
560 paving the streets, sidewalks and alleys, and improving public
561 property.

562 (78) Whenever in the opinion of the council it is necessary
563 that any sidewalk be built or repaired, it shall first have a
564 competent engineer fix a grade line for such sidewalk and
565 shall then, by order of council, name the character of material
566 out of which same is to be built, and fix the width thereof,
567 and put in such curbing as the council may deem necessary,
568 and shall then give notice, in writing, to the owner or occupier
569 of said lot, if he be found, and if he be not found, by posting
570 a notice thereof upon the said lot and at the front door of the
571 court house of Barbour county for at least ten days, requiring
572 the construction of said sidewalk in accordance with the re-
573 quirements of the council, and upon the grade fixed by the
574 said engineer, and if such sidewalk be not built, altered or
575 repaired within twenty days after such notice is first given or
576 posted, the council shall proceed to put in the same under its
577 supervision and control, and shall charge the expense thereof
578 against the property along which the same is being placed,
579 altered or repaired, and shall cause an itemized account of
580 the same to be made up and delivered to such property owner

581 or occupier of such premises, if found, and if he be not found,
582 have the same recorded in the county clerk's office of Barbour
583 county, and the same shall constitute a lien upon the said lot
584 or property and shall be collected as other taxes are collected;
585 *provided*, nothing herein contained shall prevent the council
586 from requiring immediate repair of such sidewalks now or
587 hereafter constructed that may become dangerous, and after
588 notice to the property owner along which the same run, the
589 council may make such immediate repairs, if the property
590 owner fails to make same after such notice, and the expense
591 thereof shall be a lien in the manner aforesaid.

592 (79) The council shall have the right, when, in its opinion,
593 it is necessary or proper to do so, to pave any street or alley of
594 the said city, and to prescribe the materials to be used in such
595 paving and to charge one-third of the total costs of
596 preparing and paving the said street, to the adjacent property
597 owners on each side of the said street or alley, and to pay one-
598 third thereof out of such funds as the council may provide, but
599 such paving shall be done and such assessments and charges
600 made against the property owner as provided by chapter eight
601 of the acts of the legislature of one thousand nine hundred
601-a and eight, and any amendments thereto, or hereafter made.

602 (80) To operate by ordinance such committees or boards,
603 and delegate such authority thereto as may be deemed neces-
604 sary or advisable by the council; and to employ such legal
605 counsel on behalf of the city, from time to time, as the city
606 may deem necessary to protect the interests of the city.

607 (81) To provide for the annual assessment of the taxable
608 property in said city, including dogs kept in said city, and to
609 provide a revenue for the city for municipal purposes and ap-
610 propriate such revenue to its expenses; *provided*, nothing here-
611 in contained shall require the council to keep in repair and
612 maintain any bridge or bridges within said corporation, now or
613 hereafter owned by the county of Barbour, but the officers
614 of said corporation in the preservation of law and order shall
615 have jurisdiction over any such bridges within such corpora-
616 tion; and *provided, further*, that the police regulations as ma7
617 be ordained by said city, and the right and power to enforce
618 the same shall extend one mile into the state of West Virginia
619 beyond the corporate limits of said city.

620 (82) The council may, within any prescribed area, pro-
621 hibit the erection on any street or in any square, of any build-
622 ing, or of any addition to any building more than ten feet
623 high, unless the outer walls thereof be made of brick and
624 mortar or other fire-proof material. And may require the
625 removal of any building or addition which shall be hereafter
626 erected contrary to this prohibition, at the expense of the
627 owner or owners thereof.

628 (83) The council shall keep all roads, streets and alleys
629 within its limits passable and in good repair, and may provide
630 the expenses therefor by a direct taxation, as provided under
631 this charter, or in any other manner authorized by law; and
632 the residents of said city who are taxed therein for the pur-
633 pose of maintaining such streets and alleys shall be exempt
634 from the payment of any county road tax.

635 (84) In the enforcement of the ordinances, orders, rules,
636 regulations and by-laws of the said city, no fine shall be im-
637 posed exceeding five hundred dollars, and no person shall be
638 imprisoned or compelled to labor on the streets of said city, as
639 aforesaid, exceeding six months; *provided*, that any violation
640 of the prohibition or liquor laws of this state shall be punished
641 by the fines and penalties herein prescribed; and violations
642 of the road law or automobile laws, may be punished by the
643 fines and penalties prescribed by general law, unless different
644 fines and penalties are expressly prescribed by the ordinances
645 of said city. And in all cases where a fine is imposed for an
646 amount exceeding ten dollars, or a person be imprisoned or
647 compelled to labor as aforesaid, an appeal may be taken from
648 such decision upon the same terms and conditions that appeals
649 are taken from the judgment of a justice of this state; and
650 in no case shall a fine of less than ten dollars be imposed
651 where the ordinance prescribes a fine, if the defendant re-
652 quests that such fine be made at least ten dollars for the pur-
653 pose of appeal.

654 (85) The council shall have the right to enforce the at-
655 tendance of its members at all regular meetings and at all
656 special meetings of which such members have notice, and may
657 cause the arrest and punishment, by fine or fine and imprison-
658 ment, of any such member who refuses to attend and take
659 part in its proceedings.

660 (86) It shall be the express duty of the council to present
661 charges against any of its members, or any officer of the city,
662 who fails to perform, or who does not promptly and diligently
663 perform any duty prescribed by this act, or by any ordinance
664 or resolution of the council, and upon hearing thereof before
665 the council, after notice to such officer, he shall be removed
666 from office by the council, if the charges be found correct.

Sec. 17. To carry into effect these enumerated powers and
2 all others by this act or by general law conferred, or which
3 may hereafter be conferred upon the said city, or its council,
4 or any of its officers, the said council shall have and possess full
5 authority to make, pass and adopt all needful ordinances, by-
6 laws, orders and resolutions, not repugnant to the constitution
7 of the United States, the constitution of West
7-a Virginia and laws of this state; and to enforce any
8 and all of such ordinances, by-laws, orders or resolutions, by
9 prescribing for a violation thereof fines and penalties, and im-
10 prisonment in either the county jail of Barbour county, or
11 the city prison, if there be one; but no fine shall exceed five
12 hundred dollars and no person shall be imprisoned or com-
13 pelled to labor on the streets of said city for a longer period
14 than six months; *provided*, that any violation of the prohibition
15 or liquor laws of this state shall be punished by the fines and
16 penalties prescribed by general law, unless different fines and
17 and penalties are prescribed by the ordinances of said city.
18 Said fines and penalties shall be imposed and recovered, and
19 such imprisonment inflicted and enforced by the judgment of
20 the mayor of said city, or in case of his absence or inability to
21 act then by the clerk of said city; or in case of the absence or
22 inability to act of both of such officers then one of the council-
23 men appointed for that purpose shall act.

Sec. 18. The council, in their discretion, may fix the com-
2 pensation of all officers and other persons, whether elective or
3 appointive, and of all persons employed by them; but a coun-
4 cilman shall not receive more than two dollars for each meet-
5-6 ing nor more than thirty dollars per annum for his services as
7 a councilman; nor shall the mayor receive more than one hun-
8 dred dollars per year, exclusive of costs; nor shall the city
9 clerk receive more than fifty dollars per month; nor shall the
10 street commissioner receive more than seventy-five dollars per
11 month; nor the chief of police more than one hundred dollars

12 per month; and the assistant policemen shall not receive more
13 than three dollars per day. And no officer, agent or employe of
14 said city shall be pecuniarily interested, either directly or indi-
15 rectly, in any contract, sale, or purchase for or on behalf of
16 the city, or in the proceeds of any improvements made by or on
17 behalf of the city, nor shall he receive, directly or indirectly,
18 any compensation for his services rendered on behalf of the
19 city, other than herein specified.

Sec. 19. The mayor shall be the chief executive officer of
2 said city and shall take care that the orders, by-laws, ordinances
3 and resolutions of the council thereof, are faithfully executed.
4 He shall be a conservator of the peace within such city, and
5 shall within the same have, possess, and may exercise, all the
6 powers and perform all of the duties, whether civil or criminal,
7 vested by law in a justice of the peace. Any summons, war-
8 rants or other proceedings issued by him may be executed at
9 any place within the county. He shall have control of the po-
10 lice of the city, and may appoint special police officers whenever
11 he deems it necessary; it shall be his duty especially to see that
12 the peace and good order of the city are preserved, and that
13 persons and property therein are protected; and to this end
14 he may arrest and detain or cause the arrest and detention of
15 all riotous and disorderly persons before taking other proceed-
16 ings in the case. He shall, from time to time, recommend to
17 the council such measures as he may deem needful for the wel-
18 fare of the city. He shall not receive any money due or be-
19 longing to the state, or to corporations, or to individuals, unless
20 and until he shall have given the bond and security required
21 of a justice of the peace by chapter fifty of the code of West
22 Virginia, and all of the provisions of said chapter relating to
23 moneys received by a justice, shall apply in like manner to
24 him.

Sec. 20. The process in proceedings to enforce any ordi-
2 nance prescribing a fine, or imprisonment, or a fine and im-
3 prisonment for the violation thereof, shall be a summons in
4 the name of the city of Philippi, as plaintiff, directed to the chief
5 of police or to any constable of any district within said county,
6 requiring him to summon the person accused of such violation,
7 and who may thereafter be designated as defendant, to appear
8 before the mayor at any time and place therein named, to
9 make answer to such accusation and to be dealt with according

10 to law. Such summons shall contain such a statement of the
11 facts alleged as will inform such person of the general nature
12 of the offense against the city with which he stands charged;
13 and except in case of arrest upon view, shall be issued only
14 upon complaint, on the oath of some credible person. But for
15 cause appearing sufficient to the mayor, he may, by endorse-
16 ment on the summons, order the person so accused to be forth-
17 with apprehended and brought before him for a hearing of the
18 charge. The clerk of said city, as well as the mayor, shall have
19 authority to receive any complaint in writing, of the violation
20 of any ordinance and to sign and issue the proper summon,
21 based on such complaint. The mayor shall have, possess, and
22 may exercise the power and authority belonging to a justice
23 under sections two hundred and twenty-four and two hundred
24 and twenty-five of chapter fifty of Barnes' code of West Vir-
25 ginia, of one thousand nine hundred and eighteen, in sum-
26 monsing and enforcing the attendance and examination of wit-
27 nesses, in punishing for contempt, in granting continuances,
28 and in securing and enforcing the further attendance of the
29 accused with a view to a trial or hearing. If any recognizance
30 be taken for such further attendance and is forfeited, the mayor
31 may record the default and an action may be maintained, in
32 the name of the city, before the mayor or any justice having
33 jurisdiction against the accused and his sureties, if any, to re-
34 cover the penalty thereof.

Sec. 21. The mayor shall have power to issue an execution
2 for any fine and costs assessed or imposed by him, for the viola-
3 tion of any ordinance, or he may at the time of rendering judg-
4 ment therefor or at any time thereafter, and before satisfaction
5 of such judgment, by his order in writing, require the immedi-
6 ate payment thereof, and in default of such payment he may
7 commit the person so in default to the jail of Barbour county,
8 or, in his discretion, to the prison of said city, if one shall have
9 been provided by the council, until the fine and costs are fully
10 paid; but such imprisonment shall not exceed ninety days.

Sec. 22. The jailer of Barbour county shall take and receive
2 into his custody any person sentenced to imprisonment in the
3 jail of said county, or committed before the non-payment of
4 a fine and costs, or for the failure to enter into a recognizance
5 by the judgment or order of the mayor, in proceedings for the

6 violation of an ordinance; and the expense of maintaining such
7 persons while so in confinement shall be paid by the city.

Sec. 23. A book well bound and indexed, to be denominated
2 the "docket", shall be kept in the office of the mayor, in which
3 shall be noted each case brought or tried by him, together with
4 the proceedings therein, including a statement of complaint,
5 the summons, the return, the fact of appearance or non-
6 appearance, the defense, the hearing, the judgment, the cost
7 and, in case the judgment be one of conviction, the action taken
8 to enforce the same. The record of such case shall be signed by
9 the mayor or other person acting in his stead; and the original
10 papers thereof, if no appeal be taken, shall be kept together and
11 preserved in his office.

Sec. 24. In any case for the violation of an ordinance of
2 the said city, in which there is a judgment by the mayor of
3 imprisonment, or for a fine or more than ten dollars (and in all
4 cases the fine shall not be less than ten dollars when the ac-
5 cused requests it) an appeal shall lie at the instance of the per-
6 son against whom such judgment is rendered to the circuit
7 court of Barbour county. Such appeal shall not be granted by
8 the mayor unless within ten days from the date of the judg-
9 ment, such person shall enter into a recognizance, with security
10 deemed sufficient, to appear before the said court on the first
11 day of the next term thereof, to answer for the offense against
12 said city with which he stands charged, and not thence depart
13 without leave of said court. The provisions of general law,
14 (chapter one hundred and sixty-two of the code) relating to
15 the recognizance in criminal cases shall be applicable to the
16 recognizance contemplated by this section; but any money re-
17 covered thereon or by virtue thereof shall inure to the said city.

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any, the summons, a transcript of the record, including the
4 judgment, the recognizance and any other papers belonging to
5 the case; and such clerk shall receive and file the same, and
6 place the case upon the trial docket of the next succeeding term
7 of said court; and said court shall proceed to try the same in
8 its order.

Sec. 26. If the appellant be found guilty of violation of the
2 ordinance in question, whether upon the verdict of a jury or
3 otherwise, the court shall ascertain by its judgment the fine or

4 imprisonment, or the fine and imprisonment, to be paid or suf-
5 fered by such defendant, having regard to the punishment pre-
6 scribed by such ordinance, and shall include in any such judg-
7 ment the costs incurred by said city, as well in the proceedings
8 before the mayor, as those in court, and the fee, if any, of the
9 jailor or the keeper of the city prison; and the proceedings to
10 enforce the collection of any such fines and costs, may be the
11 same as provided in sections ten, eleven and twelve of chapter
12 thirty-six of the code of West Virginia, except that the writ
13 mentioned in the tenth section may be issued by the clerk upon
14 the order of the mayor of the city and the notice contemplated
15 by the eleventh section shall be given to such officer. If the
16 judgment be for the defendant he shall recover his costs against
17 the city.

Sec. 27. From all judgments by the mayor in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Sec. 28. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council, and have charge of
3 and preserve the records, bonds, papers, and other documents
4 belonging to the city. It shall be his duty to attend the ses-
5 sions of the police court and keep accurate records of its pro-
6 ceedings, and all judgments shall be entered by him within twen-
7 ty-four hours after the same are rendered. He shall, in case of
8 sickness or disability of the mayor to act, or in case of his ab-
9 sence from the city, or during any vacancy in the office of the
10 mayor, perform the duties of mayor, and shall be vested with all
11 powers necessary for the performance of such duties. He shall
12 also perform such other duties pertaining to the fiscal affairs
13 of the city or otherwise, as may be required of him by this act
14 or by the council.

Sec. 29. It shall be the duty of the clerk, who is hereby
2 made *ex-officio* assessor for the city, to ascertain the property
3 within said city subject to taxation, including a capitation upon
4 each male inhabitant of said city who has attained the age of
5 twenty-one years, substantially in manner and form as in the
6 case of assessments by county assessors, and make returns
7 thereof to the council on or before the first day of June of each
8 year; he shall also make out the land books for said city in each
9 year, in accordance with the valuation ascertained by the state
10 and county, and make proper transfers of such property as

11 shall have changed ownership within the preceding year, and
12 charge the same on books to the person who by himself has the
13 freehold in his possession whether in fee or for life, on the first
14 day of January in such year. When a tract or lot of land be-
15 comes the property of different owners in several parcels, the
16 clerk shall divide the value at which the whole had before been
17 assessed, among the different owners, having regard to the value
18 of each interest as compared with that of the whole, and enter
19 the same upon the land books for said year; he shall also enter
20 in said land books the value of any old building for one or more
21 years, and of any addition or improvement to a building, and
22 of any building newly erected not heretofore assessed, if the
23 same be of the value of one hundred dollars or upwards; he
24 shall have the same power and be subject to the same penalties
25 in ascertaining and assessing the property and subjects of taxa-
26 tion in said city, as are conferred and imposed upon county
27 assessors by general law. The council shall have authority to
28 prescribe by general ordinances, such other rules and regula-
29 tions as may be necessary to enable and require the assessor to
30 ascertain and properly assess all property, subject to taxation
31 by the city, so that such assessment and taxation shall be uni-
32 form and equal, and may enforce such rules and regulations
33 by reasonable fines to be imposed upon any one failing or re-
34 fusing to comply therewith. The said clerk shall also list the
35 number of dogs or other animals subject to license tax in said
36 city, and the names of the persons owning the same, which list
37 shall be returned to the council at the same time the assessment
38 is returned. All property, both real and personal, shall be
39 assessed as of the first day of January at its true and actual
40 value, and shall be assessed annually. Such assessments shall
41 be made according to the provisions of chapter twenty-nine of
42 the code, as amended by chapter one hundred and fifty-two of
43 the acts of one thousand nine hundred and twenty-one, and any
44 amendments thereto hereafter made.

Sec. 30. The council shall hold a session on the second
2 Tuesday of August in each year for the transaction of business
3 generally, at which time it shall ascertain the condition of the
4 fiscal affairs of the city, and make up an itemized statement of
5 the same, which shall set forth in detail:

6 (a) The amount due the municipality, and the amount
7 that will become due thereto and collectable during the current

8 fiscal year, from every source, but excepting the amount that
9 will be produced by the levy of taxes to be made for the year;

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

14 (c) All other expenditures, under the several heads of ex-
15 penditures, to be made and payable out of the funds of the
16 municipality for the current fiscal year, including the cost of
17 collection of taxes and other claims, with proper allowance for
18 delinquent taxes and contingencies. Said statement shall also
19 set forth the total amount necessary to be raised by the levy of
20 taxes for the current fiscal year, and the proposed rate of levy
21 of taxes on the property of the municipality; and also the ag-
22 gregate of the taxable property in the municipality; stating
23 separately the amount of personal property, of real estate, and
24 of the property assessed by the board of public works. A copy
25 of such statement duly certified by the clerk, recorder or other
26 recording officer of such municipality, shall be published as
27 provided in section two of chapter nine of the acts of one
28 thousand nine hundred and, and posted at each voting place
29 in the municipality at least eight days before an adjourned
30 meeting of the common council to be held on the fourth Tues-
31 day in August at which time the council shall reconvene and
32 proceed in all respects as provided by section two. After hav-
33 ing entered the said statement, as finally approved, in its book
34 of record of proceedings, the council shall thereupon levy as
35 many cents on each one hundred dollars of the assessed valua-
36 tion of the property of the municipality, according to the last
37 assessment thereof, as will produce the amount shown by the
38 said statement necessary to be raised for municipal purposes
39 during the fiscal year; *provided*, that such levy shall not exceed
40 thirty-five cents on each one hundred dollars of valuation of
41 property taxable for city purposes. Additional and special
42 levies may be made according to the provisions of chapter nine
43 of the acts of of the legislature of one thousand nine hundred
44 and eight.

Sec. 31. The clerk of said city before entering upon the dis-
2 charge of his duties, shall execute a bond conditioned for the
3 faithful performance by him of the duties of his office, and for
4 the accounting for and paying over as required by law all

5 money which may come into his hands by virtue of his office
6 with sureties satisfactory to the council, payable to the city
7 of Philippi, in a penalty of not less than three thousand nor
8 more than ten thousand dollars as the council may prescribe.
9 He shall be custodian of all moneys, bonds, notes, certificates
10 and other evidences of indebtedness to the city, together with
11 all valuable papers which may be placed in his possession by
12 the council. He shall be chargeable with, and it shall be his
13 duty, to collect the city taxes, levies and assessments, under
14 such regulations as may be prescribed by law and the ordi-
15 nances of the city, and in case the same are not paid within
16 one month after they are placed in his hands for collection, he
17 may distrain and sell therefor in like manner, and have the
18 same power and authority possessed by the officer charged with
19 the collection of state taxes.

Sec. 32. Immediately after the annual levy of city taxes
2 is made, it shall be the duty of the city clerk to extend the same
3 in the property books returned by the assessor, including as
4 well the proper capitation tax, and make out therefrom proper
5 tax tickets and the same, after being examined and compared
6 and approved by the council and found to be correct, shall be
7 turned over to the clerk on or before the first day of August
8 following the levy, whose receipt shall be returned to the coun-
9 cil and entered upon its records, and the clerk shall be charged
10 therewith. The clerk shall give notice that said tickets are in
11 his hands for collection, stating the penalty for non-payment
12 thereof, and the time and place where the same may be paid,
13 which notice shall be published for twenty days in two or more
14 newspapers, published in said city. To all persons who shall
15 pay their taxes in full before the first day of November next
16 succeeding said levy, there shall be allowed a discount of two
17 and one-half per centum on the whole amount of taxes so paid
18 and not otherwise. To all taxes remaining unpaid on the first
19 day of January next succeeding said levy, a penalty of ten
20 per centum shall be levied, and the clerk shall forthwith pro-
21 ceed to collect from the parties by distraint or otherwise the
22 entire amount of the taxes with which they are severally
23 charged therein with interest at the rate of one per centum per
24 month from the said first day of January, until they are fully
25 paid, together with the penalty herein provided to be added
26 thereto.

Sec. 33. It shall be the duty of the clerk, at least once in
2 six months during his continuance in office, and oftener when
3 required by the council to render an account of the taxes, levies,
4 assessments and other claims in his hands for collection, and
5 return a list of such as he shall not have been able to collect by
6 reason of insolvency, removal or other cause, to which list he
7 shall append an affidavit that he has used due diligence to col-
8 lect the claims therein mentioned, but has been unable to do so,
9 and if the council shall be satisfied with the correctness of said
10 list, it shall allow him a credit for said claim, but may there-
11 after take such lawful measures to collect the same as may be
12 prescribed. He shall keep regular books of account to be ex-
13 amined and approved by the council, of all moneys received and
14 disbursed by him, and of other matters pertaining to his office.
15 which books shall at all times be open to the inspection of the
16 council, or any committee appointed by it for such purpose.
17 All moneys belonging to the city shall be paid over to the clerk,
18-19 and no moneys shall be paid out by him except upon the
20 order of the council, countersigned by the mayor. If the clerk
21 shall fail to collect, account for and pay over all or any of the
22 moneys with which he may be chargeable, belonging to the city,
23 according to the conditions of his bond and the orders of the
24 the council, the same may be recovered by action or by motion,
25 upon ten days' notice in the corporate name of the city, in
26 the circuit court of Barbour county, against him and his sure-
27 ties or any or either of them or his or their executors or ad-
28 ministrators. If the sum claimed does not exceed three hun-
29 dred dollars, such recovery may be had before the mayor or any
30 justice of said county.

Sec. 34. There shall be a lien on real estate, within said
2 city, for the city taxes assessed thereon, and for all fines and
3 penalties assessed to, or imposed upon the owners thereof by
4 the authorities of such city from the time the same are so
5 assessed or imposed, which shall have priority over all other
6 liens, except the lien for taxes due the state, county and dis-
7 trict; and which may be enforced by the council in the same
8 manner provided by law for the enforcement of the lien for
9 county taxes. And there shall also be a lien on the real estate
10 of adjoining property owners, for the amount due from such
11 owner or owners for building or repairing sidewalks and pav-
12 ing streets or alleys, under sub-sections seventy-eight and

13 seventy-nine of section sixteen of this act, which lien may be
14 enforced in a court of equity. If any real estate within said
15 city be returned delinquent for the non-payment of the de-
16 linquent taxes thereon a copy of such delinquent list may be
17 certified by the council to the auditor, and the same may be sold
18 for the city taxes, interest and commissions thereon, in the same
19 manner, at the same time and by the same officer as real estate
20 is sold for the non-payment of state taxes.

Sec. 35. It shall be the duty of the chief of police to pre-
2 serve order and quiet in said city, and to see that all subordi-
3 nate police officers faithfully perform their official duties. He
4 shall be present in the police court, whenever the same shall be
5 in session, and see that all its orders and requirements are
6 properly executed. He shall, before entering upon the dis-
7 charge of his duties, execute a bond conditioned for the faith-
8 ful performance by him of the duties of his office, and for the
9 accounting for and paying over, as required by law, all money
10 which may come into his hands by virtue of his office, with se-
11 curities satisfactory to the council in a penalty of not less than
12 one thousand dollars nor more than three thousand dollars as
13 the council may prescribe.

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

20 courts, that such fines, penalties and forfeitures are recovered
21 against constables.

Sec. 37. The council shall have the right to institute proceedings in the name of the city, for the condemnation of real estate for streets, alleys, drains, market grounds, parks, playgrounds, landings, wharfs, city prison, or other work of public utility. Such proceedings shall conform to the general laws of the state 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.

Sec. 38. The council of said city shall have power to issue bonds in behalf of the city for the payment of its debts or for future improvements, and to establish a sinking fund for the payment thereof; *provided*, the same shall be in accordance with section eight of article ten of the constitution, and general laws of this state.

Sec. 39. All officers elected under the present charter of "The City of Philippi" shall be subject to the provisions of this act, and receive the emoluments herein mentioned, and shall continue in office until the first Monday in April, one thousand nine hundred and twenty-four, or until their successors are elected or appointed and qualified, and shall exercise all the powers conferred on them by this act and by general law.

All acts inconsistent with this act are hereby repealed.

CHAPTER 72

Senate Bill No. 172—Mr. Kee)

AN ACT to amend and re-enact chapter one hundred and fourteen of the act of the legislature of one thousand nine hundred and seventeen, relating to the charter of the city of Princeton, in the county of Mercer.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the Governor April 24, 1923]

<p>SEC.</p> <p>1. Creating "the city of Princeton" a municipal corporation.</p> <p>2. Corporate limits.</p> <p>3. Wards and boundaries.</p> <p>4. Municipal authorities.</p> <p>5. Corporate powers.</p>	<p>SEC.</p> <p>6. Subordinate officers.</p> <p>7. Eligibility of officers.</p> <p>8. Election of officers.</p> <p>9. Who are voters.</p> <p>10. Registration of voters.</p> <p>11. General election.</p>
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SEC.		SEC.	
12.	Tie vote, how decided.	29.	Police docket.
13.	Contested elections.	30.	Annual levy.
14.	Vacancy in office.	31.	Annual assessment.
15.	Appointment of additional officers; their duties and compensation.	32.	Liens for taxes.
16.	Bonds.	33.	Collection of taxes.
17.	Oaths of office.	34.	Additional duties of assessor.
18.	Tenure of office.	35.	Licenses.
19.	Ineligibility or failure to qualify.	36.	Condemnation of land for public use.
20.	Powers, duties and salary of mayor.	37.	Provisions for bonding city.
21.	Powers, duties and salary of recorder.	38.	No indebtedness to be created for current expenses.
22.	Quorum.	39.	Streets, roads and bridges.
23.	Record of minutes and ordinances.	40.	Existing ordinances.
24.	Reading of minutes.	41.	Power to make and maintain sidewalks, streets, etc.
25.	Who shall vote in council.	42.	Duty of council to appoint officers to hold elections.
26.	Meetings of council.	43.	Duties of city attorney.
27.	To whom money of city shall be paid.	44.	Where money to be deposited.
28.	Duties and powers of council.	45.	Salaries of councilmen.
		46.	Repeal of acts and ordinances inconsistent.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred and fourteen of the acts of the legislature of one thousand nine hundred and seventeen, relating to the charter of the city of Princeton, be amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of Mercer, in the state of West Virginia, included in the boundary described in section two of this act, be and they are hereby constituted 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, purchase and otherwise acquire and hold real estate either within or without the corporate limits of the city and personal property needed or useful in discharge of the functions of government conferred by this charter, and to sell and convey the same to the purchaser.

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 running thence 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 county clerk of Mercer County, West Virginia, on the twenty-third day of March, one thousand nine hundred and

10 four, to a point fifty feet beyond the said center line at right
11 angles thereto; thence parallel to the center line of the location
12 of said railroad as shown upon said map, and fifty feet distant
13 therefrom to Christian's fork, which is a point eastward from
14 the residence of William Oliver; thence eastwardly to the Carr
15 and Bratton cattle scales on the old Pisgah road and including
16 the said scales; thence northwesterly, in a straight line, to two
17 large old willow trees by an abandoned spring by the side of an
18 old house-seat in an old apple orchard, which point is up a
19 hollow in an eastern direction from the northern end of the
20 present Virginian railway shops; thence a straight line, in a
21 southwestern direction, to the residence formerly owned by
22 Elliott Blankenship on the Low Gap road, including the said
23 residence within the corporate limits; thence a straight line,
24 including the said former residence of said Blankenship within-
25 in the corporate limits as aforesaid, touching the residence of
26 the late Saunders Lewis, and including the same within the
27 corporation, to a point in the center line of the Raleigh and
28 Kanawha turnpike road; thence a straight line touching the
29 residence of I. W. Walker, now owned by W. B. Honaker, and
30 including the same within the corporate limits to Glady fork;
31 thence down Glady fork to the point of beginning.

Wards and Their Boundaries.

Sec. 3. The said city of Princeton shall consist of three
2 wards, which shall be bounded as follows:

3

First Ward.

4 All the following described boundary shall constitute the first
5 ward of the said city, that is to say: Beginning at a point on
6 the corporate limits of said city in the center of the bridge over
7 Brush creek, on the road leading from Princeton to Ingleside;
8 thence in a northern direction and with said Ingleside road to
9 the center of Princeton avenue; thence with the center of said
10 Princeton avenue, in a western direction, to the intersection of
11 the center line of said avenue with the center line of Fellers
12 street; thence with the center of Fellers street, in a northern
13 direction, to its intersection with the center line of Main street;
14 thence with the center line of Main street, in a western direction,
15 to its intersection with the center line of Mercer street; thence
16 with the center line of Mercer street, in a north-east direction, to
17 the intersection with the center line of Center street; thence with

18 the center line of Center street, in a western direction to its in-
19 tersection with the center line of Hale avenue; thence with the
20 center line of Hale avenue, in a northern direction, to the corpor-
21 ate line; thence with the corporate line, in a western direction
22 and south-western direction, to Gladly fork; thence down Gladly
23 fork to Brush creek; thence down Brush creek to the point of
24 beginning.

25

Second Ward.

26 All the following described boundary shall constitute the sec-
27 ond ward of said city, that is to say: Beginning at the begin-
28 ning corner of the first ward, at a point in the center of the
29 bridge across Brush creek, on the Ingleside road; thence down
30 Brush creek, in a north-west direction, to the railroad bridge
31 across Brush creek south of the Virginian railway freight sta-
32 tion; thence with the center of the survey for the Mercer Elec-
33 tric Railway Company's line in a western and north-western di-
34 rection to First street; thence with the center of First street,
35 in a northern direction to its intersection with the east end of
36 the center line of Harrison street; thence with the center line of
37 Harrison street in a western direction to its intersection with the
38 center line of Third street; thence with the center line of Third
39 street in a northern direction to the northern end of Third
40 street; thence continuing in the same direction, and on the same
41 degree as the last named line to the corporate line; thence with
42 the corporate line in a south-west direction, to the center of Hale
43 avenue, at the northeast corner of the first ward; thence with the
44 center of Hale avenue, in a southeast direction, to Center street;
45 thence with Center street, in an eastern direction, and with the
46 line of the first ward, reversing its course to the intersection of
47 the center line of Center street with the center line of Mercer
48 street; thence with the center line of Mercer street, in a south-
49 west direction to its intersection with the center line of Main
50 street; thence with the center line of Main street to its intersec-
51 tion with the center line of Fellers street; thence with the center
52 line of Fellers street, in a southern direction, to its intersection
53 with the center line of Princeton avenue; thence with the center
54 line of Princeton avenue, in an eastern direction, to its inter-
55 section with the center of the Ingleside road; thence with the
56 center of the Ingleside road, in a south-east direction, to the
57 point of beginning.

58

Third Ward.

59 All the following described boundary shall constitute the third
60 ward of the said city, that is to say: All that territory lying
61 within the corporate limits of said city, east, north-east and
62 south-east of the second ward, and not included in the bounda-
63 ries of either the first or second wards.

Municipal Authorities.

Sec. 4. The municipal authorities of the said city of Prince-
2 ton shall consist of a mayor, recorder and six councilmen, who
3 shall constitute the council of said city.
3 in the corporate name of said city, unless otherwise provided by
4 state law or municipal ordinance.

Exercise of Corporate Powers.

Sec. 5. All the corporate powers and functions pertaining to
2 said city shall be exercised by its council, or under its authority,

Subordinate Officers.

Sec. 6. The council shall appoint an assessor, a city engineer,
2 a chief of police and such additional police officers as they may
3 deem proper, a city attorney, a chief of fire department and such
4 other officers as may be provided for by ordinance of the city
5 council or by this act, and such officers shall hold their respec-
6 tive offices during the pleasure of the council, and may be re-
7 moved therefrom by the council at any time with or without
7-a cause.

8 The several offices or any two or more of them may be held
9 by the same person, except that a councilman shall not be
10 eligible to any appointive office during the term for which he
11 shall have been elected.

12 Such officers shall receive such compensation as the council
13 may prescribe by ordinance or order, unless said compensation
14 be fixed by this act.

15 The mayor and recorder shall be eligible to hold any such ap-
16 pointive office.

Eligibility of Officers.

Sec. 7. No person shall be eligible to the office of mayor,
2 recorder or councilman, unless at the time of his election he is
3 legally entitled to vote in the city election for member of the

4 common council; and he was for the preceding year assessed with
5 taxes upon real or personal property within the said city, of the
6 assessed aggregate value of at least three hundred dollars, and
7 shall actually have paid the taxes so assessed.

Election of Officers.

Sec. 8. On the first Tuesday of June, one thousand nine
2 hundred and twenty-three, there shall be elected by the qualified
3 voters of said city a mayor and recorder, and by the qualified
4 voters of each ward, two councilmen. The term of office of the
5 said mayor and recorder and of the councilman from each ward
6 receiving the lesser number of votes shall be for the period of
7 two years commencing on the first day of July, one thousand
8 nine hundred and twenty-three, and until their successors shall
9 be elected and qualified. The term of office of the councilman
10 from each ward receiving the greater number of votes shall be
11 for the period of four years commencing on the first day of
12 July, one thousand nine hundred and twenty-three, and until
13 their successors shall be elected and qualified.

14 On the first Tuesday of June, one thousand nine hundred and
15 twenty-five, and every two years thereafter there shall be elected
16 by the qualified voters of said city a mayor and recorder whose
17 term of office shall be two years as aforesaid, and by the quali-
18 fied voters of each ward one councilman whose term of office
19 shall be four years as aforesaid.

Who Are Voters.

Sec. 9. Every person residing in said city shall be entitled to
2 vote for all officers elected under this act; but no person who
3 is a minor, or of unsound mind, or a pauper, or who is under
4 conviction of treason, or bribery in an election, or who has not
5 been a resident of this state for one year and of said city for
6 six months next preceding the election at which he desires to
7 vote, shall be permitted to vote therein.

Registration of Voters.

Sec. 10. All qualified voters within the city of Princeton
2 entitled to vote in the municipal election held therein shall be
3 registered in like manner as are the qualified voters in state and
4 county elections, and the state laws of the state of West Virginia

5, in effect at the time of such registration shall in all things apply thereto; except the fee for such registration shall be five cents for each qualified voter so registered, and the powers conferred upon the county court by the state laws in reference to the registration of voters are hereby conferred upon the council of said city of Princeton.

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 election in said city shall be held and conducted and the result thereof certified, returned and finally determined under the laws in force in this state relating to general elections, except that the persons conducting said elections shall, on the day after the election is held deliver the ballots, tally sheets and poll books to the recorder, and thereafter the council of said city shall meet within five days (Sundays excepted) after said election and canvass the returns of said election, and declare the result thereof, and in all respects comply with the requirements of the statute of the state relating to elections. The corporate authorities of said city shall perform all duties in relation to such elections required by general law of the county court and officers in effect on the day of said election and each succeeding election under this charter. And the provisions of the code in effect on the date of said election, concerning elections by the people, shall govern such elections and be applicable thereto, and the penalties therein prescribed for offenses relating to elections shall be enforced against the offenders of such corporate elections; and the said act shall have the same force and effect as if it were specially applicable 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 proceedings shall hold over and

6 remain in office for the purpose of passing upon and deciding
7 such contest, and for such purposes only; and nothing herein
8 provided shall be construed to interfere with the duties, power
9 and authority of the new or incoming council.

Contested Elections.

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

Vacancy in Office.

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

Appointment of Additional Officers—Their Duties—Compensation.

Sec. 15. The council shall also have authority to provide by
2 ordinance for the appointment of such other officers as shall be
3 necessary and proper, to carry into full force and authority the
4 power, capacity, jurisdiction and duties of said city, which are
5 or shall be vested therein or in the council, or in the mayor, or
6 any other officer or body of officers, thereof, and to grant to the
7 officers so appointed the power necessary or proper for the pur-
8 pose above mentioned. The council, by ordinance, shall define
9 the duties of all officers so appointed, and may provide them a
10 reasonable salary, which shall be payable out of the city treas-
11 ury, and shall require and take from all of them whose duty it
12 shall be to receive its funds, assets or property, or have charge
13 of the same, such bonds, obligations, or other writings as they
14 shall deem necessary or proper to insure the faithful performance
15 of their several duties. All officers elected may be removed by
16 the council from office for intemperance, gross immorality, gam-
17 bling, malfeasance or misfeasance in office, or inability or neglect
18 to perform the duties of their respective offices. Any appointed
19 officer who holds his office at the pleasure of the council, may be

20 removed from his office with or without cause. The chief of po-
21 lice shall have power, rights and privileges within the corporate
22 limits of said city in regard to the arrest of persons, the collec-
23 tions of claims and the execution and return of process that can
24 be legally exercised by a constable of a district within this state;
25 and may without having any warrant or other process therefor,
26 arrest any person who commits any offense against the laws of
27 this state or infraction of the ordinances of said city, in his
28 presence. He shall be *ex-officio* the keeper of the city jail, and
29 have charge of the city prisoners confined therein, and may
30 confine any person arrested by him in the city jail until such
31 time as the charge against such person can be inquired into by
32 the recorder. Any person fined by the recorder, for infraction
33 of any of the ordinances of the city, may pay such fine to either
34 the recorder or the chief of police; and the said chief of police
35 and his sureties shall be liable for all fines, penalties and forfei-
36 tures that a constable of a district is liable for in the same court
37 that the said fine, penalties and forfeitures are now recovered
38 against a district constable. For his services as chief of police
39 he shall receive a salary to be fixed by the council, payable out
40 of the city treasury, and no other fees, commissions, emoluments,
41 salaries or compensations whatsoever shall be allowed him for
42 such services. All fees, which but for this act, he would be en-
43 titled to recover and retain shall nevertheless be charged and
44 collected by him and paid into the city treasury at the end of
45 each month for the use and benefit of the city. The chief of
46 police shall be appointed to his office by the council.

Bonds.

Sec. 16. All bonds, obligations or other writings taken in
2 pursuance of any provision of this act or under the provisions
3 of any order of said city, shall be made payable to "The City
4 of Princeton", and the obligors therein and their heirs, execu-
5 tors, administrators and assigns bound thereby shall be subject
6 to the same proceedings on such bonds, obligations or writings
7 for enforcing the conditions of the terms thereof, by motion or
8 otherwise, before any court of record or justice of the peace
9 having jurisdiction thereof, held or acting in or for said Mercer
10 county, or any district thereof or elsewhere, that the sheriff or
11 collector of said county and his sureties are, or shall be subject

12 to, on his bond taken for the enforcement of the duties in the
13 payment of the county levy.

Oaths of Office.

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

Tenure of Office.

Sec. 18. The mayor and recorder shall enter upon the duties
2 of their office upon the first day of July next after their election
3 and their terms of office shall be for a period of two years. The
4 councilmen shall enter upon the duties of their offices upon the
5 first day of July next after their election and their terms of
6 office shall be for a period of four years and until their suc-
7 cessors are elected and qualified, except that the councilmen
8 from each ward receiving the lesser number of votes in the elec-
9 tion to be held in one thousand nine hundred and twenty-three
10 shall hold their offices for two years and until their successors
11 are elected and qualified, and all appointive officers shall enter
12 upon their duties as soon as they have qualified, and shall re-
13 main in office until removed therefrom.

Ineligibility or Failure to Qualify.

Sec. 19. If any person elected to any office shall not be
2 eligible thereto under the provisions of this act, or shall fail
3 to qualify as herein required, the council shall declare his said
4 office vacant and proceed to fill the vacancy as required by this
5 act.

Powers, Duties and Salary of the Mayor.

Sec. 20. The mayor of the said city shall be chairman of its
2 council, shall preside at the meetings of the council and shall
3 also be a conservator of the peace within the said city. He shall
4 especially see that the orders, by-laws, ordinances, acts and
5 resolutions of the council are faithfully executed. He shall
6 have control of the police of said city and may appoint special
7 police officers, whenever he may deem it necessary, and may
8 suspend any police officer of the city until the next regular meet-
9 ing of the council. And it shall be his duty especially to see
10 that the peace and good order of the city are preserved, and that
11 persons and property therein are protected, and to this end he
12 may arrest or cause the arrest and detention of all violators of
13 the laws of this state and ordinances of the city if the offense is
14 committed in his presence. He shall from time to time recom-
15 mend to the council such measures as he may deem useful and
16 needful for the welfare of the city. For his services as mayor,
17 he shall receive the sum of three hundred dollars per year, to
18 be paid out of the city treasury in monthly installments and no
19 other fees, commissions, emoluments, salaries or compensation
20 whatever shall be allowed him for his services as mayor.

Power, Duties and Salary of Recorder.

Sec. 21. The recorder shall keep an accurate record of all
2 the proceedings of the council, and shall have charge of and
3 preserve the records of the city. In case of the absence of the
4 mayor from the city, or his inability from any cause to act, or
5 during any vacancy in the office of mayor, the recorder shall
6 perform such duties of the mayor as pertain to the office of
7 mayor, and to that end, in addition to the other powers herein
8 conferred upon him, the recorder is hereby vested with all the
9 powers necessary for the performance of the duties of the mayor,
10 while acting as such. The recorder shall be ex-officio assessor of
11 said city, and shall perform such duties as such as are im-
12 posed by law. He shall be paid a salary of four hundred dol-
13 lars per year, payable in equal monthly installments, for his ser-
14 vices as such recorder and assessor, to be paid out of the city
15 treasury. He shall be ex-officio justice of the peace within the
16 said city and shall, within the same, have, possess and exercise
17 all the powers and perform all the duties vested by law in a
18 justice of the peace, except he shall have no jurisdiction in civil

19 causes of action arising out of the corporate limits of the city,
20 unless the defendant resides or is found therein and process
21 therein served upon him. He shall have the same power to is-
22 sue attachments in civil suits as a justice of the peace of his
23 county has; but, in such case, he shall have no power to try the
24 same, but such attachments shall be made returnable and heard
25 before a justice of the peace of his county. Any warrant is-
26 sued by him, or other process, may be executed at any place in
27 said county. He shall have power to issue his warrant for the
28 arrest and apprehension of all persons violating the ordinances
29 of the city, and shall have power to try the same and impose
30 upon such violators of the ordinances of said city such fines and
31 penalties as are prescribed by the ordinances thereof. He shall
32 have the power to issue executions for all fines, penalties and
33 costs imposed by him, or he may require the immediate pay-
34 ment thereof, and in default of such payment, he may commit
35 the party in default to the jail of said county, or other place of
36 imprisonment used by such corporation, if there be one, until
37 the fine or penalty and the costs be paid; but the imprisonment
38 in such cases shall not exceed thirty days. And in all cases
39 where a person is sentenced to imprisonment or to the payment
40 of a fine of ten dollars or more, (and in no case shall a judg-
41 ment for a fine be for less than ten dollars if the defendant, his
42 agent or attorney object to a less fine being imposed) such per-
43 son shall be allowed an appeal from such decision to the crim-
44 inal court of the county of Mercer, upon the execution of an ap-
45 peal bond with security deemed sufficient by said recorder to
46 cover the fine and costs, and the cost in the criminal court in
47 case said judgment be affirmed, with condition that the person
48 proposing to appeal will perform and satisfy any judgment
49 which may be rendered against him by the criminal court on
50 such appeal. If such appeal be taken, the warrant of arrest, if
51 any, a transcript of the judgment, the appeal bond and other
52 papers in the case shall be forthwith delivered by the said re-
53 corder to the clerk of said court, and the said court shall pro-
54 ceed to try the case as upon an indictment or presentment and
55 render such judgment, including costs, as the law and evidence
56 may require. The expense of maintaining any person com-
57 mitted to jail as hereinbefore set forth by the recorder, except
58 it be to answer an indictment, shall be paid by the said city and
59 taxed as costs against the defendant. He shall have the right to
60 charge and collect the same fees which a justice of the peace is

61 authorized to charge and collect for similar acts in cases tried
62 before him. The recorder shall also be ex-officio treasurer of
63 the said city, and as such shall perform all the duties in
64 this act imposed upon the treasurer of the said city and be
65 vested with all the powers herein vested in and imposed upon
66 the treasurer of the said city. It shall be the duty of the treas-
67 urer to collect the city taxes, licenses, levies, assessments, and
68 other such city claims as are placed in his hands for collection
69 by the council, and he may distrain and sell therefor in like man-
70 ner as a sheriff may distrain and sell for state taxes; and he
71 shall, in all other respects, have the same powers as a sheriff to
72 enforce the payment and collection thereof. The treasurer shall
73 be ineligible to succeed himself in office.

Quorum.

Sec. 22. The presence of the mayor, or ex-officio mayor, and
2 four members of said council shall be necessary to make a quorum
3 for the transaction of business at all meetings of the council of
4 said city.

Record of Minutes and Ordinances.

Sec. 23 The council shall cause to be kept by the recorder
2 in a well bound book to be called the "minute book", an ac-
3 curate record of all its proceedings, ordinances, acts, orders and
4 resolutions, and in another to be called "ordinance book," ac-
5 curate copies of all general ordinances adopted by the council;
6 both of which shall be accurately indexed and open to the in-
7 spection of any one required to pay taxes in the city, or who
8 may be otherwise interested therein. All oaths and bonds of
9 officers in the city, and all papers of the council shall be en-
10 dorsed, filed and securely kept by the recorder. The bonds of
11 officers shall be recorded in a well bound book to be called
12 "record of bonds." The recorder shall perform such other
13 duties as by ordinance of the council may be prescribed. The
14 transcript of ordinances, acts, orders and resolutions certified by
15 the recorder under the seal of the city shall be admissible in
16 evidence in any court, or before any justice.

Reading of Minutes.

Sec. 24. At each meeting of the council the proceedings of
2 the last meeting shall be read and corrected, if erroneous, and

3 signed by the presiding officer for the time being. Upon the call
4 of any member the ayes and noes on any question shall be taken
5 and recorded by the recorder in the "minute book". The call
6 of the members for such vote shall be made alphabetically.

Who Shall Vote in Council.

Sec. 25. The mayor, or in his absence the recorder, shall pre-
2 side at the meetings of said council; the mayor and recorder
3 shall have no vote as members of said council except in the case
4 of a tie vote in the council, in which case the presiding officer
5 shall vote.

Meetings of Council.

Sec. 26. The regular meetings of the council shall be public-
2 ly held at such times and at such places in the city as they shall
3 from time to time ordain and appoint; and it shall be lawful
4 for the council by ordinance to vest in any officer of the city, or
5 in any member, or number of members, of its own body, the
6 authority to call special meetings and prescribe the mode in
7 which notice of such special meetings shall be given; if a ma-
8 jority of the members of the council do not attend any regular
9 or special meeting, those in attendance shall have authority to
10 compel the attendance of absent members under such reason-
11 able penalties as they may think proper to impose by ordi-
12 nance. All questions put to vote, except such matters as here-
13 inafter provided for, shall be decided by a majority of the mem-
14 bers present.

To Whom Money of City Shall be Paid.

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

Duties and Powers of Council.

Sec. 28. The council of said city shall have power to lay off,
2 vacate, close, open, alter, grade, improve and keep in good re-

3 pair the roads and streets, alleys, pavements, sidewalks, cross
4 walks, drains, sewers and gutters therein, for the use of the
5 citizens and the public. And to improve and light the same,
6 and keep them free from obstructions of every kind; to regulate
7 the width and kind of pavements and sidewalks, footways,
8 drains and gutters, and cause the same to be built and kept in
9 good repair and order, and free and clean by the owners and oc-
10 cupants of the real property next adjacent thereto; to establish
11 public parks and play grounds, and to this end purchase and
12 acquire necessary and appropriate grounds and improve the
13 same and regulate the use thereof; to establish markets, pre-
14 scribe the time for holding the same, provide suitable and con-
15 venient buildings therefor, and prevent the forestalling of said
16 markets; to prevent injury or annoyance to the public or to
17 individuals from anything dangerous, offensive or unwhole-
18 some; to prohibit or regulate slaughter houses, tan houses and
19 soap factories within the city limits, or the exercise of any un-
20 healthful or offensive business, trade or employment; to abate
21 all nuisances within the city limits, or to compel the abatement
22 or removal thereof, at the expense of the person causing the
23 same, or by or at the expense of the owner or occupant of the
24 ground on which said nuisance is placed or found; to cause to
25 be filled up, raised or drained, by or at the expense of the owner,
26 any city lot or tract of land covered or subject to be covered by
27 stagnant water; to prevent horses, hogs, cattle, sheep or other
28 animals, and fowls of all kinds from going or being at large in
29 such city, and as one means of prevention to provide for im-
30 pounding or confining such animals and fowls at the expense
31 of the owner thereof; to protect places of divine worship and to
32 preserve order in and about the premises when and where wor-
33 ship is held; to regulate the keeping and sale of gunpowder, and
34 other inflammable or dangerous substances; to regulate the man-
35 ner of exhibiting for sale and the selling of milk, meats and
36 vegetables; to permit and regulate the building of houses, or
37 other structures, and regulate the kind of material to be used in
38 the construction thereof, and to provide for the making and
39 maintaining of division fences by the owners of adjoining prop-
40 erty, and for the proper drainage of city lots and other parcels
41 of land by or at the expense of the owner or occupant thereof;
42 to provide against danger or damage by fire; to punish assault
43 and battery; to prohibit the keeping or loitering in or visiting

44 houses of ill-fame, or loitering in saloons or upon the streets;
45 to prevent lewd or lascivious conduct, the sale or exhibition of
46 indecent pictures or papers or other representations; to prevent
47 adultery and fornication; to prohibit the carrying of concealed
48 or dangerous weapons within the corporate limits of said city;
49 to punish drunkenness; to punish larceny where the amount
50 stolen is less than twenty dollars; to prevent gambling, and the
51 keeping and using of slot machines and gaming devices; to pro-
52 hibit anything against good morals and common decency, and
53 to fix punishment therefor; to prevent the desecration of the
54 Sabbath day, profane swearing, the illegal sale of intoxicating
55 drinks, mixtures or preparations; to protect the person of those
56 residing or being in said city, to appoint, when necessary or ad-
57 visable, a police force, permanent or temporary, to assist the
58 chief of police in the discharge of his duty, and who, when ap-
59 pointed, to have the same power and authority in and about the
60 arrest of offenders, as the chief of police may have; to build or
61 purchase, or lease a suitable place of imprisonment within said
62 city, for the safe keeping of punishment of persons charged
63 with or convicted of a violation of the ordinances of the city,
64 or they may adopt the county jail of Mercer county for that
65 purpose; to erect or authorize or prohibit the erection of gas,
66 water works, or electric works, or all of them, within the city lim-
67 its, or near the same; to require any company or person furnish-
68 ing gas, electricity or water to said city for the inhabitants
69 thereof, to put in standard meters for the measurement thereof,
70 and may appoint any person to inspect the meters and remove
71 the same, if not standard and in good order; to prevent injury
72 to such works, or the pollution of any gas or water used or in-
73 tended to be used by the public or any individual; to require
74 the extension of gas, electric and water lines by such respective
75 companies, to any and all parts of the said city when the said
76 council may deem the same necessary; to provide for and reg-
77 ulate the weighing of hay, coal, lumber and other articles sold
78 or kept within said city, and to establish rates and charges for
79 the weighing and measuring thereof; to create by ordinance
80 such committees and delegate such authority thereto as may be
81 necessary or advisable; to provide for the annual assessment of
82 taxable property therein, and for the revenue for the city for
83 municipal purposes, and to appropriate such revenue to its ex-
84 penses; and generally to have power to take such measures as

85 are deemed necessary or advisable to protect person or property,
86 public or private, within the city; to preserve peace, quiet and
87 good order therein and to promote the health, safety, comfort
88 and well being of the inhabitants thereof; to organize one or
89 more fire companies and provide necessary apparatus, tools, im-
90 plements, engines, or any of them, for their use, and in their
91 discretion to organize a paid fire department; to make regula-
92 tions with respect to the erection and location of telephone,
93 telegraph, electric light or other poles by any individual or cor-
94 poration; to grant and regulate all franchises in, upon, over
95 and under the streets, alleys and public ways of said city, under
96 such restrictions, as shall be provided by ordinance; but no ex-
97 clusive franchise shall be granted by said council to any indi-
98 vidual or corporation, nor shall any franchise be granted for a
99 longer period than fifty years; to regulate, license and restrict
100 the use of motor buses, automobiles, carriages, drays and
101 wagons, upon the streets, alleys and public grounds of the said
102 city when the same are being used for hire or reward.

103 The council shall have authority to pass all ordinances not
104 repugnant to the constitution and laws of the United States
105 and of this state, which shall be necessary and proper to carry
106 into full effect the power, authority, capacity and jurisdiction
107 which is or shall be granted to or vested in the said city, or
108 in the council or in any officer or body of officers of said city,
109 and to enforce any and all of the ordinances by reasonable fines
110 and penalties, and upon the failure to pay any fine or penalty
111 imposed, may compel the offender to labor without compensa-
112 tion at and upon any of the public works or improvements
113 undertaken, or to be undertaken, by said city, or to labor at
114 any work which the said council may lawfully employ labor
115 upon, at such reasonable rates per diem as the council may fix,
116 until any fine, or fines and costs upon any offender by said city
117 have been fully paid and discharged, after deducting reason-
118 able charges of support while in the custody of the officers of
119 the city; *provided, however*, that no fine shall be imposed ex-
120 ceeding thirty dollars and costs, and that no person shall be
121 imprisoned or compelled to labor as aforesaid for more than
122 thirty days for any one offense. And in all cases where a fine
123 is imposed for an amount exceeding ten dollars and costs, or a
124 person be imprisoned, or be compelled to labor as aforesaid for
125 a greater term than ten days, an appeal may be taken from

126 such decision upon the terms and conditions as appeals are
127 taken from the judgment of a justice of this state. Such fines
128 and penalties shall be imposed and recovered, and such im-
129 prisonment inflicted and enforced by and under the judgment
130 of the recorder of said city; or in case of his absence or inabil-
131 ity to act, then by any member of the council, to be appointed
132 by the council for that purpose; and for his services in trying
133 cases, whether civil, criminal or infractions against ordinances,
134 the recorder shall be entitled to charge and collect such fees
135 as are paid to justices of the peace for similar services. And
136 in all such cases the chief of police, or other officer perform-
137 ing the service shall be entitled to receive such fees as are paid
138 to constables for similar services, which shall be paid to the
139 city treasury at the end of each month, taking proper vouch-
140 ers therefor; *provided, further*, that the fee for making any
141 arrest shall be one dollar, whether such officer be the chief of
142 police or other officer. In addition to the powers above enum-
143 erated, the said city council shall have power to build, con-
144 struct, maintain and operate a sufficient sewerage system and
145 water works, as may be necessary for the proper supply of
146 water to the inhabitants of the said city, for both public and
147 private use, and said city shall have the power to purchase or
148 condemn any water works now in the said city or hereafter
149 placed therein by any party other than said city, whenever
150 the council of said city shall deem proper. and such order shall
151 have been ratified by a vote of the qualified voters of said city,
152 at an election called for that purpose, with due notice, and at
153 least two-thirds of the votes cast at said election shall vote for
154 the ratification of said council to purchase or condemn said
155 water works; and the said city shall have the power to enlarge
156 the said water works, if so purchased or condemned, by putting
157 additional reservoirs either within or out of said city; and the
158 said city shall have the right, if its council shall deem proper,
159 and the order of said council be ratified by a vote as aforesaid,
160 to build, construct, maintain, and operate such water works
161 in the said city as may be deemed proper without the purchase
162 or acquisition of any water works then in said city and said
163 city shall have the right to lay pipes and mains for the proper
164 distribution of said water, either in or out of said city, as shall
165 be necessary for the proper distribution of same, and for that
166 purpose may acquire by lease, purchase or condemnation all

167 such lands as shall be necessary, either within or without the
168 said city, or they may contract for such work to be done, in
169 either event to supply an adequate supply of pure, healthful
170 water for said city, and do all things necessary to supply the
171 said city and the inhabitants thereof with water as aforesaid;
172 and the said city may acquire by purchase or condemnation
173 any electric light plant now in said city or hereafter placed
174 therein by any party other than said city, and shall have the
175 right to build, construct, maintain, and operate such plant for
176 furnishing electricity for said city, and for the inhabitants
177 thereof, but no electric light plant shall be purchased, con-
178 demned, or built or operated unless voted on by the qualified
179 voters of said city at an election called and held as aforesaid,
180 and the same be ratified by a two-thirds vote of all votes cast
181 at said election. Whenever anything for which a state license
182 is, or may be, required to be done within said city, or within
183 two miles of the corporate limits thereof, the council, as herein
184 provided, may by ordinance require a city license to be had
185 for doing the same, the amount of which license shall be fixed
186 by the council; and may, in any case, require from the person
187 licensed a bond, with sureties, and in such penalty, and with
188 such conditions as it may deem proper, and the council on no-
189 tice may revoke such license at any time if the condition of the
190 said bond be broken. The council may impose a license and
191 assess a tax thereon on all wheeled vehicles for public hire, and
192 upon all dogs kept within said corporate limits. The council
193 may prescribe, impose, and enforce reasonable fines and pen-
194 alties, including imprisonment, under the order of the police
195 judge of said city, or the persons lawfully exercising his func-
196 tions, upon any person carrying on, or attempting to carry on,
197 any business for which a city license is required without first
198 obtaining a city license therefor, and paying the city license
199 tax assessed thereon. All licenses provided for in this act shall
200 be paid to the treasurer of the city; and for the purpose of en-
201 forcing the provisions of this section, the city shall have police
202 jurisdiction for two miles beyond the corporate limits thereof.
203 The council shall have the power to make all regulations and
204 pass all ordinances necessary and proper concerning the grant-
205 ing and revoking of licenses, but the public shall be given no-
206 tice by publication for two issues in a newspaper of general
207 circulation by any firm, person, or corporation desiring a li-
208 cense of any character.

Police Docket.

2 Sec. 29. A well bound book, indexed, to be denominated the
3 "police docket," shall be kept in the office of the recorder, in
4 which shall be noted each case brought before or tried by him,
5 together with the proceedings therein, including a statement of
6 the complaint, the warrant or summons, the return, the fact of
7 appearance, or non-appearance, the defense, the hearing, the
8 judgment, the costs, and in case the judgment be one of con-
9 viction the action taken to enforce the same. The record of
10 each case shall be signed by the recorder, and the original papers
11 thereof, if no appeal be taken, shall be kept together and pre-
served in his office.

Annual Levy.

 Sec. 30. The council shall lay an annual levy or any addi-
2 tional or special levy at such times as may be provided by the
3 general laws then in force and may include a poll tax of not
4 exceeding two dollars each year upon each able bodied man re-
5 siding within the limits of the city, who is over the age of
6 twenty-one years, which poll tax shall be used exclusively for
7 opening, improving and maintaining roads, streets and alleys of
8 the city, and shall designate the same as the "street taxes;"
9 and the said council may also impose such license tax upon dogs,
10 cows, horses and other animals as they may deem proper and
11 collect the same from the owners of such animals, as other taxes
12 are collected, and prescribe such rules, regulations and penalties
13 governing the payment of said tax on animals as they may deem
14 reasonable. The general annual levy upon the taxable property
15 within the corporate limits of said city shall not exceed the sum
16 of sixty cents, upon each one hundred dollars valuation. But
17 in addition to said levy above mentioned, and in addition to any
18 levies provided by the general law, the council of said city, be-
19 ginning with the year one thousand nine hundred and twenty-
20 three, are empowered to and shall lay a special annual levy not
21 to exceed ten cents on each one hundred dollars valuation of the
22 property in said city for the purpose of creating a sinking fund
23 with which to pay off the principal of the present outstanding
24 bonded indebtedness of said city when the same becomes due
25 and of retiring the bonds so outstanding in accordance with the
26 provision thereof, and for the further purpose of paying an-
27 nually when due, the interest coupons of the said present out-

28 standing bonded indebtedness of the said city, which said special
29 levy shall be continued annually by the council for as many
30 years as it may be necessary to pay off the present outstanding
31 bonded indebtedness and the interest coupons that may become
32 due thereon, but no longer. Also in addition to the above, the
33 said council beginning with the year one thousand nine hundred
34 and twenty-three, are empowered to and shall lay a special an-
35 nual levy not to exceed fifteen cents on each one hundred dollars
36 valuation of the property in said city for the purpose of pay-
37 ing off any outstanding orders issued against the treasury of
38 said city prior to July first, one thousand nine hundred and
39 twenty-one, and for the further purpose of paying off any and
40 all debts contracted prior to said date or any judgment taken
41 against the said city; and after said orders and debts have been
42 paid the said council may continue to lay said special levy for
43 such public improvements as the council shall from year to year
44 certify by resolution as necessary to be made during the suc-
45 ceeding year. And both of the aforesaid special levies when col-
46 lected shall be used for no other purpose than for the afore-
47 said purpose for which they shall be laid as aforesaid.

Annual Assessment.

Sec. 31. It shall be the duty of the assessor to make an as-
2 sessment of the property within the city subject to taxation sub-
3 stantially in the manner and form in which assessments are
4 made by the assessor of the county, and return the same to the
5 council on or before the first day of June of each year, and for
6 this purpose he shall have all the powers conferred by law upon
7 county assessors. He shall list the number of dogs and other
8 animals subject to license tax in the city, and the names of the
9 persons owning the same, which list shall be returned to the
10 council at the same time his assessment books are returned. But
11 in making his assessment on real and personal property he shall
12 be governed by the assessment on real and personal property
13 for state and county purposes for said year, and the value
14 placed on said property shall not exceed the value of such as-
15 sessment for county and state purposes. In order to aid the
16 assessor in ascertaining the property subject to taxation by said
17 city, he shall have access to all books and public records of said
18 Mercer county, without expense to him or said city, and he shall
19 have the same power and be subject to the same penalties in

20 ascertaining and assessing the property and subjects of taxation
21 in said city, as are granted and imposed on the county assessors
22 throughout the state by general law; and the council shall have
23 authority to prescribe by general ordinance, such other rules
24 and regulations as may be necessary to enable and require such
25 treasurer to ascertain and properly assess all property liable to
26 be taxed by said city, so that such assessment and taxation shall
27 be uniform and equal, and the council may enforce such rules
28 and regulations by reasonable fines to be imposed on any one
29 failing to comply therewith. When he shall complete his as-
30 sessment book he shall deliver the same, when sworn to, to the
31 city council.

Liens for Taxes.

Sec. 32. There shall be a lien on all real estate within the
2 said city for the city taxes assessed thereon, and for all fines and
3 penalties assessed against or imposed upon the owners thereof,
4 by the authorities of said city, including expenses for making,
5 maintaining and repairing, paving and macadamizing sidewalks,
6 drains, gutters and streets from the time work is begun, which
7 shall have priority over all the other liens except taxes due the
8 United States and the lien for taxes due the state, county and
9 district, and such lien may be enforced by the council in the
10 manner provided by law for the enforcement of the lien for
11 county taxes. And the laws of the state of West Virginia in
12 relation to delinquent taxes, and the sale of property therefor,
13 are hereby and in all respects adopted as to all proceedings in
14 relation to taxes for city purposes delinquent in said city. And
15 the powers and duties conferred by the laws of said state upon
16 county courts and their clerks and sheriffs in regard to delin-
17 quent taxes and their collection, are hereby in all things con-
18 ferred upon said city council, its recorder and other city offi-
19 cials whose duties are of a similar nature as those of said county
20 officials, in so far as the same may be directly or by implication
21 applicable in the collection of delinquent taxes due said city.

Collection of Taxes.

Sec. 33. It shall be the duty of the city treasurer when the
2 extended copies of the assessor's books are completed, to receive
3 a copy thereof, receipting to the council for the same, and it
4 shall be his duty to collect from the parties the entire amount

5 of the taxes with which they are severally charged therein, and
6 may proceed to collect the same at any time after the first day
7 of August, and may enforce the payment thereof by levy upon
8 the personal property, and sale thereof, of the person charged
9 with taxes at any time after the first of October next, after said
10 taxes are assessed. He may also allow a discount of two and
11 one-half per cent on all taxes paid on or before the thirtieth day
12 of November. Said taxes shall be a lien upon the property upon
13 which they are assessed from and after the time the assessor's
14 books are completed, verified and returned to the city council,
15 and he shall write the word "paid," opposite the name of each
16 person who pays the taxes against him, and shall also give to
17 the person paying such taxes a receipt therefor; *provided, how-*
18 *ever,* that said treasurer may distrain at any time for any taxes
19 assessed against a person who is about to remove, or who has
20 removed from said city, after such taxes are assessed, and the
21 books returned as aforesaid. He shall also receive such other
22 moneys of the city as he is authorized by this act to receive, and
23 also all moneys ordered by the council to be paid to him, giving
24 receipt therefor to the parties paying the same, and shall keep
25 an accurate, itemized account of all money received by him.
26 His books shall, at all times, be open for the inspection of the
27 mayor, council, city recorder, and to any taxpayer of the city.
28 He shall also make up monthly statements of the money received
29 by him and the amount paid out by him and to whom, showing
30 the amounts in his hands from all sources, and shall post the
31 same in the mayor's office on the last day of each month. He
32 shall pay out the money in his hands upon the order of the city
33 council, upon orders signed by the mayor and the recorder. He
34 shall, on or before the expiration of the term of office of the
35 mayor, and at such other times as the council may require, pre-
36 sent to the council a full and complete statement of all the
37 moneys with which he is chargeable, or that have been received
38 by him and not previously accounted for, and shall at the same
39 time, in like manner, furnish a complete statement, by separate
40 items, of all disbursements made by him during such period,
41 with his vouchers evidencing the same. He shall receive all
42 taxes upon licenses and receipt to the party paying the same,
43 by endorsement upon the permit granted by order of the coun-
44 cil, or mayor as the case may be. He shall, upon the expiration
45 of his term of office, turn over to the council all books and other

46 property in his possession belonging to the city, except the
47 money in his hands, which he shall turn over to his successor,
48 upon the order of the council, as hereinbefore provided; and
49 shall, before entering upon the duties of his office, execute a
50 bond with good security payable to said city in a penalty of not
51 less than ten thousand dollars, conditioned that he will faith-
52 fully discharge the duties of his office and account for and pay
53 over as required by law and the orders, ordinances, rules and
54 regulations of the council of said city, all money which shall
55 come into his hands, which bonds shall be subject to the ap-
56 proval of the council. He shall be chargeable with all the city
57 taxes, levies and assessments and money of the city, which shall
58 come into his hands and shall account therefor.

Additional Duties of Assessor.

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

Licenses.

Sec. 35. The council shall prescribe by ordinance the time
2 and manner in which licenses of all kinds shall be applied for
3 and granted, and shall require the payment of the tax thereon
4 to the city recorder before the delivery thereof to the person
5 applying therefor, which tax shall include the same fees for
6 the issuing of such licenses as are charged for similar services
7 by state and county officers, which fees shall be paid into the
8 city treasury. The council may revoke any such license for a
9 breach of any of the conditions, or for other good cause shown,
10 but the person holding such license, must first have reasonable

11 notice of the time and place of hearing and adjudicating the
12 matter, as well as the cause alleged; and shall be entitled to be
13 heard in person or by counsel, in opposition to such revocation.
14 The term for which licenses provided for in this charter shall
15 be granted shall be governed by the general law providing for
16 state licenses.

Condemnation of Land for Public Use

Sec. 36. The council shall have the right to institute and
2 prosecute proceedings in the name of the city for condemnation
3 of real estate for streets, alleys, roads, drains, sewers, market
4 grounds, city prison, city hall, water works, electric light plant
5 or other works, or purposes of public utility. Such proceed-
6 ings shall conform to the provisions of chapter forty-two of
7 Barnes' code of West Virginia, of one thousand nine hundred
8 and eighteen and the expenses thereof shall be borne by the
9 city, except in cases where it is proper under said chapter to
10 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
2 bond the said city for the purpose of paving the said streets, or
3 for other permanent improvements, or for the purpose of taking
4 up, paying off or refunding any already outstanding city bonds
5 or items of indebtedness, whenever the council thereof may deem
6 the same necessary; but the aggregate indebtedness of the said
7 city for all purposes shall never at any time exceed five per
8 centum of the assessed valuation of the taxable property therein
9 according to the last assessment next preceding said date. The
10 said council shall provide a fund for the payment of the interest
11 annually on the said indebtedness so created, and to pay the
12 principal thereof within and not exceeding thirty-four years;
13 *provided*, that no debt shall be contracted hereunder, unless all
14 questions connected with the same be first submitted to a vote
15 of the qualified voters of said city, and have received three-fifths
16 of all 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,
2 for any purpose, create any indebtedness against the said city
3 except as provided in the next preceding section, exceeding the

4 available assets of the said city for the current year; and if the
5 said council shall create such indebtedness or issue orders on
6 the city for an amount exceeding the amount of money avail-
7 able for that year for said city from all sources, and the amount
8 of money then in the treasury appropriated, the members of
9 said council shall be severally and jointly liable for the payment
10 of the excess of such indebtedness or orders over the amount
11 of money applicable thereto, and the same may be recovered in
12 any court having jurisdiction thereof. Any councilman violat-
13 ing the provisions of this section shall be deemed guilty of mal-
14 feasance in office, and may be removed as such councilman in
15 pursuance of section fifteen of this act. *Provided, however,*
16 this shall not be applicable to such members who have voted
17 against said excess; and, *provided, further,* that the vote of each
18 member of council shall be recorded.

Streets, Roads and Bridges.

Sec. 39. The said city shall construct, conduct and maintain
2 its own roads and streets, and by reason thereof shall not be re-
3 quired to pay any district or county road levies for the con-
4 struction and maintenance of roads outside of the city limits.

Existing Ordinances.

Sec. 40. All ordinances, by-laws, resolutions and rules of the
2 city of Princeton in force on the day preceding the passage of
3 this act, which are not inconsistent therewith, shall be and re-
4 main in full force over the whole boundary of said city of
5 Princeton, as established by this act, until the same are amended
6 or repealed by the council of said city, and the officers elected
7 at the last election, in the city of Princeton, shall remain in of-
8 fice until their successors under this act are elected and quali-
9 fied as hereinbefore provided; and after this act takes effect,
10 shall have jurisdiction over all the territory embraced in the
11 boundary specified in this act, and shall perform all the duties
12 of such respective officers under this act; but nothing in this
13 act shall be construed or held to in any way affect or impair
14 any of the bonds, obligations or indebtedness of the city of
15 Princeton as though the same had been created under this
16 charter.

Power to Make and Maintain Sidewalks, Streets; Etc.

Sec. 41. The council shall have power to provide for the construction, maintenance and repair of sidewalks, drains and gutters upon the streets of the city, and assess the expenses of the construction, maintenance and repair of the same upon the property abutting thereon and the owners thereof, and collect the same in the same manner as other taxes and levies are collected, and shall have plenary power to macadamize and pave or otherwise improve the streets of the said city, or any of them, and assess part of the expenses of macadamizing and paving not to exceed one-half thereof upon the abutting property on each side thereof, and the owners thereof, and collect the same in the same manner as other taxes and levies are collected; and such assessments for sidewalks, drains, gutters, macadamizing and paving shall be a lien upon such abutting property, the same as other taxes and levies within said city upon the property therein. *Provided*, that nothing herein shall be construed to prevent the council from arranging for the construction of any such improvements, by agreement with the abutting property owners, if the council shall so desire and deem it advisable to do so.

Upon a petition in writing signed by the owners of not less than three-fifths in lineal feet frontage of the property abutting upon any street, avenue or roadway in said city, or of the property abutting upon any portion thereof between any two intersecting streets, asking the city to grade, curb, pave or otherwise permanently improve such street, avenue or road or portion thereof, and offering in such petition to have their property so abutting as aforesaid assessed with their proportionate part of the entire cost thereof, in proportion to the frontage thereon, the council may order such work to be done as hereinafter provided and charge and assess the entire cost thereof, or such part of the cost thereof as may be agreed upon between the council and the owners of at least three-fifths of such frontage, to the property abutting upon such street, avenue or roadway, or portion thereof, in proportion to the frontage of the respective properties abutting thereon, and collect the same as taxes are collected or by action at law or suit in equity.

Upon the filing of such petition the council shall set a date for a hearing thereon, and shall give notice thereof for at least one week by posting copies of the order reciting the filing of

40 such petition and its object, together with the date set for a
41 hearing, in at least three places upon or adjacent to the street,
42 avenue or roadway proposed to be improved.

43 Upon such hearing the council shall adopt the plans and spec-
44 ifications for the proposed improvement and shall thereupon
45 determine whether the work shall be done or not.

46 If the council determine to do such work then the same shall
47 be let to the lowest reasonable bidder after advertisement of
48 the letting thereof for once a week for at least two weeks in
49 some newspaper of general circulation in the city of Princeton.
50 Upon the receipt of such bids the council may reject any or all
51 bids. The council may require deposit to be made with each bid
52 as evidence of good faith, and shall have plenary power to de-
53 cide upon the responsibility, etc., of the several bidders. The
54 council shall also take bond with good security from the suc-
55 cessful bidder in a sum equal to the estimated value of the work
56 conditioned for the faithful and proper performance thereof.

57 When the said improvement shall have been completed, or
58 when the said improvement shall have been completed between
59 any two cross streets intersecting the street, avenue or roadway
60 improved, then the city may assess the cost thereof against the
61 property abutting upon the said street, avenue or roadway, or
62 such part thereof as may be completed, and collect the same
63 from the owners thereof as aforesaid.

64 Every assessment made hereunder shall be a lien upon the
65 property liable therefor the same as for taxes, which lien may
66 be enforced in the same manner provided for the collection of
67 taxes and shall have priority over all other liens upon said prop-
68 erty except for taxes due the state and county, and shall be on
69 a parity with the taxes and assessments due the city.

70 The city shall pay the contractor for such work as shall be
71 provided in the contract out of such fund as may be available
72 or provided, and shall reimburse itself or such fund out of the
73 assessments when collected.

Duty of the Council to Appoint Officers to Hold Elections.

Sec. 42. The council of the city of Princeton shall provide
2 places for voting in each ward in all municipal elections of the
3 city, and appoint commissioners residing therein to hold and
4 conduct the election hereinbefore provided to be held, and shall

5 pass all proper ordinances to give this act full force and effect,
6 and the council may establish as many voting precincts in each
7 ward as it may deem proper.

Duties of City Attorney.

Sec. 43. The city attorney, if there be one, shall be the legal
2 adviser of the city and all of its officers in all matters arising,
3 and in which legal proceedings may be taken; he shall prosecute
4 all suits, actions and proceedings instituted on behalf of said
5 city, and defend all suits and actions against said city, and when
6 requested in writing shall give his written opinion to the mayor
7 or council or any standing committee thereof upon such legal
8 questions as may be referred to him affecting the city's interest;
9 he shall perform such other duties as may be required. It shall
10 be his duty to attend the sessions of the council when requested
11 and prosecute all trials before said recorder and all appeals
12 that are taken from such recorder to the criminal or circuit
13 court, and for his services he shall receive such compensation
14 as the council shall provide, and in addition thereto in all crim-
15 inal prosecutions conducted by said city attorney, where there
16 is a conviction of the defendant, there shall be taxed an attor-
17 ney's fee in favor of said city attorney, of not less than five nor
18 more than ten dollars, which said fee shall be taxed as part of
19 the costs of the case.

Where Money to Be Deposited.

Sec. 44. It shall be the duty of the city treasurer to keep
2 all funds of the city in some bank or banks within said city,
3 which shall pay interest on such deposits and on the average
4 daily balances of such funds of the per cent equal, at least, to
5 that paid by state depositories on all funds of the state of West
6 Virginia and in the same manner and at the same time. If no
7 bank within said city is willing at any time to receive deposits
8 of the treasurer and pay such interest thereon, the treasurer
9 shall report this fact to the council, whereupon the council shall
10 designate the bank or banks in which he shall deposit said funds
11 for the time being and until some bank in said city will receive
12 such deposits on such terms.

Salaries of Councilmen.

Sec. 45. Each councilman of said city shall receive from the
2 city, to be paid out of the city treasury, the sum of one hundred
3 dollars a year, payable in monthly installments, and in addition
4 thereto two dollars and fifty cents for each meeting of the coun-
5 cil actually attended by him.

Repeal of Inconsistent Acts and Ordinances.

Sec. 46. All ordinances of the city of Princeton, as they exist
2 at the time of the passage of this act, which are inconsistent
3 therewith, are hereby abrogated, and all acts and parts of acts
4 inconsistent with any of the provisions of this act are hereby
5 repealed.

CHAPTER 73

(Senate Bill No. 226—Mr. Hugus)

AN ACT to amend and re-enact sections eighteen, nineteen, fifty,
fifty-two and ninety-eight of the part entitled "Greater
Wheeling charter" of an act of the legislature of West Vir-
ginia, passed on the twentieth day of February, one thousand
nine hundred and fifteen, entitled, An act to amend, revise
and consolidate into one act an act of the legislature of West
Virginia, passed February eleventh, one thousand nine hundred
and seven, entitled: An act to amend, revise and consolidate
into one act an act of the general assembly of Virginia, passed
March eleventh, one thousand eight hundred and thirty-six, en-
titled: An act to incorporate the city of Wheeling, in Ohio
county, and all subsequent acts, both of the general assembly
of Virginia, and of the legislature of West Virginia, which
form a part of the charter of the city of Wheeling; chapter
eleven of the acts of said legislature of West Virginia of one
thousand nine hundred and nine; chapter two of the acts of
said legislature of one thousand nine hundred and eight, extra
session; and chapter ninety-one of the acts of said legislature
at the regular session in the year one thousand nine hundred
and thirteen; and all other acts of the said legislature, passed
since the passage of said act of February eleventh, one thou-
sand nine hundred and seven, and which forms a part of the

charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen.

[Passed April 17, 1923. In effect from passage. Approved by the Governor April 25, 1923]

<p>SEC. 18. Municipal primary; nominating petition; official ballot; canvass. of returns.</p> <p>19. Removal of officers; petition; special recall election; official ballot; form; successor to any removed councilmen; method to be cumulative.</p>	<p>SEC. 50. Power to condemn property for use of city.</p> <p>52. Cause streets or alleys to be paved; materials; cost of paving a lien on lots; notice; records, abstracts; fee.</p> <p>98. Civil service provisions.</p>
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Be it enacted by the Legislature of West Virginia:

That sections eighteen, nineteen, fifty, fifty-two and ninety-eight of the part entitled "Greater Wheeling Charter," of chapter twenty-one of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen (Municipal Charters) approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred and fifteen as amended and re-enacted by chapter one hundred and seventeen of the acts of the legislature (Municipal Charters), of one thousand nine hundred and seventeen: as amended and re-enacted by chapter eleven of the acts of the legislature (Municipal Charters), of one thousand nine hundred and nineteen; as amended and re-enacted by chapter thirty-one of the acts of the legislature (Municipal Charters), of one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Section 18. Candidates to be voted for at all general municipal
 2 elections at which councilmen are to be elected under the pro-
 3 visions of this charter (but not at special recall elections),
 4 shall be nominated by a primary election, and no other names
 5 shall be printed upon the ballots used at the general election,
 6 except those selected in the manner hereinbefore prescribed.
 7 The primary election for such nominations shall be held on the
 8 second Thursday of May preceding the general election. The
 9 judges and clerks of any primary or general municipal election
 10 shall be selected by the council from a list of persons, which
 11 may be proposed in writing by a majority of the candidates.
 12 All such lists shall be proposed in writing at least twelve days

13 before such election. In case none or an insufficient number
14 are so proposed, the council may select such number as may be
15 each election precinct. The council of said city, as consti-
16 tuted just before the charter takes effect, shall appoint the
17 judges and clerks for the first primary and general elections
18 to be held hereunder, as provided in this section.

19 The name of any person desiring to become a candidate for
20 council shall be printed upon the primary ballots, if twenty
21 days prior to said primary election there be filed with the city
22 clerk a petition requesting such privilege, signed by at least
23 twenty-five qualified voters of his ward, if he be a candidate
24 for a ward nomination, and by at least one hundred voters if
25 a candidate for councilman-at-large. Each petition shall be
26-a verified by the affidavit of one or more credible persons as to
27 the qualifications and residence of each of the persons so sign-
28 ing the said petition. Said petition shall be in form or effect
29 as follows, specifying, however, whether the candidacy is for
30 the office of councilman from a certain ward or at large:

31 The undersigned, duly qualified electors of the city of Wheel-
32 ing and residing at the places set opposite our respective names
33 hereto, do hereby request that the name of [name of candi-
34 date] be placed on the ballots as a candidate for nomination for
35 [name of office] at the primary election to be held in such city
36 on the second Thursday of May, 19..... We further state
37 that we know him to be a qualified elector of said city and a
38 man of good moral character, and qualified, in our judgment,
39 for the duties of such office.

40 Names of Qualified Electors..... Number.....Street.
41 Any person whose name has been submitted for candidacy by
42 any such petition shall file his acceptance of such candidacy
43 with the city clerk not later than fifteen days before the day of
44 primary election, and in the absence of such acceptance the name
45 of the candidate shall not appear on the ballots. Immediately
46 upon the expiration of the time of filing the petitions for and
47 acceptance of the candidates, the city clerk shall cause to be pub-
48 lished in all the daily newspapers of the city once, in proper
49 form, the names of the persons as they are to appear upon the
50 primary ballots; and the said clerk shall thereupon cause the
51 primary ballots to be printed, authenticated with a fac simile
52 of his signature.

53 The ballots shall be printed upon plain, substantial, white
54 paper, without party mark or designation, and shall contain
55 the names of the candidates in alphabetical order. The bal-
56 lots shall be substantially in the following form or to the fol-
57 lowing effect, to-wit:

58 *Official Primary Ballot.*

59 Candidates for Nomination for Council of the City of Wheel-
60 ing at the rimary Election.

61 (Place a cross in the square to the left of the name of the
62 candidate you favor.)

63 For Councilman-at-Large.

64 (Vote for One.)

65 [] Names of Candidates.

66 For Councilman (Name of Ward).

67 (Vote for One.)

68 [] Names of Candidates.

69 Official Ballot—Attest:

70 City Clerk.

71 (Fac simile of the Signature.)

72 Having caused said ballot to be printed the said city clerk
73 shall cause to be delivered at each polling place a number of
74 of said ballots equal to twice the number of votes cast in such
75 polling precinct at the last general municipal election. The
76 persons who are qualified to vote at the general election shall
77 be qualified to vote at such primary election, and challenges
78 can be made by not more than two persons, to be appointed at
79 the time of opening the polls by the judges of election; and the
80 law applicable to challenges at a general municipal election
81 shall be applicable to challenges made at such primary election.
82 The judges of election in each precinct shall, immediately
83 upon the closing of the polls, count the ballots and ascertain
84 the number of votes cast in their precinct for each of the candi-
85 dates, and make return thereof on proper blanks, properly
86 sealed, to the city clerk within six hours of the closing of the
87 polls, and post duplicate return blanks on the outside of the
88 voting place. On the day following the said primary election
89 the said city clerk shall canvass said returns so received from
90 the polling precincts, and shall make and publish in all the
91 newspapers of said city, at least once, the result thereof. Said
92 canvass by the city clerk shall be publicly made. The two
93 candidates receiving the highest number of votes for council-

94 man-at-large and the two candidates receiving the highest
95 number of votes for councilman from the ward in each of the
96 wards, shall be the candidates, and the only candidates, whose
97 names shall be placed upon the ballots at the next ensuing gen-
98 eral municipal election. In the event of the death or resigna-
99 tion of a nominee before the election, the name of the candi-
100 date receiving the next highest number of votes at the pri-
101 mary in his ward, if such nominee was nominated in a ward,
102 or at large, if nominated at large, shall be placed on the ticket
103 in his stead.

104 When more than two persons shall have an equal number of
105 votes for the same nomination and more than the other candi-
106 dates, so that there is no choice at the primary, the city clerk
107 shall determine by lot the two names out of those voted on at
108 the primary, and tied as aforesaid, to be placed on the ballots
109 for the next ensuing regular election, and whenever in any
110 other case no choice of candidate is made at a primary by rea-
111 son of a tie vote, such clerk shall also determine by lot who of
112 those so tied shall have his name placed on the ballots for the
113 next ensuing regular election.

114 The ballot at such general municipal election shall be in the
115 same general form as for such primary election, so far as prac-
116 ticable.

117 The necessary and legitimate expenses of the holding of any
118 such primary, as well as of any regular or special municipal
119 election in said city for ballots, stationery, forms, ballot boxes,
120 booths, voting places, judges and clerks and notices of the
121 election shall be paid by the city. At every such primary
122 election the polls shall open at eleven a. m. and close at seven
123 p. m. and at every other municipal election in said city,
124 regular or special, they shall open at six a. m. and close at
125 seven p. m.

126 In so far as the first primary election under this charter is
127 concerned, the duties by this section imposed upon the city
128 clerk, shall be performed by the auditor of the city in office
129 when this act takes effect, and the words, "city clerk" as here-
130 inbefore used in this section. shall be construed as meaning
131 such auditor in respect of such first primary.

Sec. 19. The city councilmen may be removed from office
2 by the electors qualified to vote for their successors. The pro-
3 cedure to effect the removal shall be as follows:

4 A petition signed by electors entitled to vote for such succes-
5 sors equal in number to at least twenty per centum of the entire
6 vote cast at the last preceding general municipal election, de-
7 manding an election of a successor or successors of the person
8 or persons sought to be removed shall be filed with the circuit
9 clerk of Ohio county, which petition shall contain a general
10 statement of the grounds for which the removal is sought. The
11 signatures to the petition need not all be on one paper, but each
12 paper shall contain such general statement of the grounds, and
13 each signer shall add to his signature his place of residence, giv-
14 ing the street and number. One of the signers of such papers
15 shall make oath before an officer competent to administer oaths,
16 that the statements therein made are true as he believes, and that
17 each signature on the paper is the genuine signature of the per-
18 son whose signature it purports to be. Within ten days from
19 the date of filing such petition, the said circuit clerk shall ex-
20 amine and ascertain whether or not said petition is signed by the
21 requisite number of qualified electors, and, if necessary, the coun-
22 cil shall allow him extra help for that purpose, and he shall at-
23 tach to said petition his certificate showing the result of said ex-
24 amination. If, by the said certificate, the petition is shown to be
25 insufficient, it may be amended within ten days from the date of
26 said certificate. The said circuit clerk shall, within ten days
27 after such amendment, make like examination of the amended
28 petition, and, if his certificate shall show the same to be insuffi-
29 cient, it shall be returned to the person filing the same—without
30 prejudice, however, to the filing of new petition to the same ef-
31 fect. If the petition shall be deemed sufficient by him, the said
32 circuit clerk shall submit the same to the city council without
33 delay. If the petition shall be found by it to be sufficient, the
34 city council shall order and fix a date for holding said election of
35 such a successor or successors, not less than thirty days nor
36 more than forty days from the date of said circuit clerk's cer-
37 tificate to the council that a sufficient petition is filed. Said
38 city council shall allow said circuit clerk a reasonable compen-
39 sation for the services thus rendered.

40 The city council shall make, or cause to be made publication of
41 notice and all arrangements for holding such election, and the
42 same shall be conducted, returned and the result thereof de-
43 clared in all respects as are other city elections. Nominations of
44 candidates to be voted on at such election shall be made without

45 the intervention of a primary election, by filing with the city
 46 clerk at least ten days prior to said special election, a statement
 47 of candidacy accompanied by a petition signed by electors en-
 48 titled to vote at said special election, equal in number to at least
 49 ten per centum of the entire vote at the last preceding general
 50 municipal election, if the election is of a councilman-at-large, and
 51 signed by at least ten per centum of the voters of the ward; if the
 52 election is of a councilman from a ward, which said statement of
 53 candidacy and petition shall be substantially in the form set
 54 out in section eighteen of this act, so far as the same is applica-
 55 ble, substituting the word "special" for the word "primary"
 56 in such statement and petition, and stating therein that such
 57 person is a candidate for election instead of nomination, and
 58 making such other necessary changes therein to adapt same to
 59 the case of such special recall election. But the person sought to
 60 removed shall have his name placed on the ballots for use at such
 61 election, as a candidate to succeed himself, without nomination,
 62 unless he requests the city clerk otherwise in writing.

63 The ballot for such special election shall be in substantially
 64 the following form or to the following effect:

65 *Official Ballot.*

66 "Special election for the balance of the unexpired term of
 67 (here name the person or persons whose unexpired term or
 68 terms are to be filled, stating whether the unexpired term to be
 69 filled is that of a councilman-at-large, or from a ward, and, if
 70 the latter, designating the ward).

71 For councilman-at-large, or from the ward.
 72 (designating the ward) of the city of Wheeling, W. Va., as the
 73 case may be.

74 (Vote for one only.)

75 [] Names of candidates.

76 [] Name of present incumbent.

77 If more than one vacancy is to be filled, add for each vacancy:

78 "For councilman from ward, designating the ward.

79 (Vote for one only.)

80 [] Names of candidates.

81 [] Name of present incumbent.

82 Official ballot—Attest:

83 , City Clerk."

84 (Fac simile of the signature.)

85 The successor of any councilman so removed shall hold office
86 during the unexpired term of his predecessor. In any such re-
87 moval election, the candidate receiving the highest number of
88 votes shall be declared elected. At such election, if some other
89 person than the incumbent receives the highest number of votes,
90 the incumbent shall thereupon be removed from the office upon
91 qualification of his successor. In case the person who received
92 the highest number of votes shall fail to qualify within ten days
93 after the result of the election is ascertained, the office shall be
94 deemed vacant. If the incumbent receives the highest number
95 of votes, he shall continue in office. The said method of removal
96 shall be cumulative and additional to any other methods pro-
97 vided by law. No recall petition shall be filed within ninety
98 days succeeding or preceding any regular city election.

99 The city manager and chief of police shall be subject to recall,
100 according to the procedure for the recall of councilmen, in this
101 section, so far as practicable, except that the ballots shall give
102 the name and title of either of those two officers, or both, as the
103 case may be, followed by the words, with appropriate voting
104 squares to the left: "For Recall," and "Against Recall".
105 Should a majority of the votes cast be in favor of recalling the
106 officer subject to this provision, the city council shall forthwith
107 choose a successor to the officer so recalled.

Sec. 50. The council may cause to be taken or damaged for
2 the use of the city, for streets, alleys, markets, bridges, public
3 squares, parks, playgrounds and other municipal purposes, in-
4 eluding occupation by sewer, water pipes, gas pipes, heating
5 pipes, compressed air pipes and electric or other subways, any
6 private property within the city, (and where such use is to se-
7 cure or improve the water supply, or for park, playground,
8 sanitary or cemetery purposes, outside the limits of the city)
9 but no such property shall be taken or damaged without just
10 compensation. The compensation, if it cannot be determined
11 by agreement with the owner of the property so taken or dam-
12 aged, shall be ascertained in such manner as is or may be, pre-
13 scribed by general law for the condemnation of land for public
14 purposes. In addition to all other levies provided by law the
15 council of the city of Wheeling shall have the right to levy an-
16 nually not to exceed five cents on each one hundred dollars
17 of the assessed valuation of the property within the limits of

18 the city according to the last assessment thereof for state and
19 county purposes, for the purpose of obtaining and maintaining
20 playgrounds and recreation centers.

Sec. 52. The council may cause any street or alley to be
2 paved, between the sidewalks, with cobble, asphalt, stone,
3 brick, or other suitable materials, under such regulations as
4 shall be fixed by ordinance, upon the lowest and best terms to
5 be obtained by advertisement for bids or proposals therefor
6 by the council as herein provided; or the council may have
7 such work done without the intervention of contractors or
8 middlemen; and two-thirds of the cost of such paving shall be
9 assessed against the owners of the lots or fractional parts
10 of lots abutting or bounding on that part of the street or
11 alley so paved in proportion to the distance of the frontage
12 owned by each, except in the case of a street whereon a rail-
13 way of any kind is being operated, the railway company, or
14 owner of such railway, shall, upon thirty days' notice in writ-
15 ing from the city, pave with like material and in a like man-
16 ner as the city paves the residue of the streets, or pay for the
17 new paving if done by the city, between the rails and a foot
18 outside of the rails, and the residue of the space between the
19 tracks where more than one are on the street, and the re-
20 mainder of the cost to be borne in the proportion of one-
21 third by the city, and the remaining two-thirds by the owners
22 of the abutting property on both sides of said street or alley
23 on which said railway is being operated, the intersections of
24 two streets, or of a street and alley, or of two alleys, to be
25 paved at the expense of the city. But where the intersection
26 is crossed by a railway track or tracks of any kind, the rail-
27 way company or owner of such tracks shall pay for the pav-
28 ing of so much of such intersection as is between its rails and
29 one foot outside of such rails, as well as the residue of the
30 space between double tracks.

31 In case two street railway tracks belonging to different
32 owners are on a street, the cost of paving between such tracks
33 on such street shall be paid one-half by the owner or owners
34 of each of such tracks.

35 The sum or sums of money thus assessed for paving shall be
36 a lien on the lots or fractional parts of lots upon which they are
37 assessed, which lien may be enforced by a suit in equity in
38 the name of the city, in the circuit court of Ohio county, West

39 Virginia, or the same, or any installment thereof, may be col-
40 lected by a suit at law before such court, or before any jus-
41 tice of the peace of said county, if the amount involved does
42 not exceed three hundred dollars, exclusive of interest, and
43 costs.

44 Immediately upon the completion and acceptance of any
45 such paving, the council shall direct the city clerk to cause
46 to be published a notice, which shall name and describe the
47 location of the portion of the street or alley upon which said
48 paving shall have been constructed; give the name or names
49 of the owners of each lot abutting or bounding upon such
50 portion of the street or alley, if known, and if the name or
51 names of the owner of any lot or fractional part of a lot are
52 unknown, such lot shall be described with reasonable cer-
53 tainty in order that the same may be identified, and the num-
54 ber of feet that each lot or fractional part of a lot abuts upon
55 such paved portion, as well as the amount assessed against
56 each lot or fractional part of a lot, for the cost of the paving.
57 Said notice shall cite all owners of lots or fractional parts of
58 lots, abutting upon the portion of the street or alley which
59 has been paved, to appear before the council at a regular
60 meeting thereof, within thirty days from the first publication
61 of the notice, and show cause, if they can, why the assess-
62 ment aforesaid should not become final, which notice shall
63 be published once a week for two successive weeks in one or
64 more newspapers of general circulation published in said
65 city. The council shall, upon the request of any one or more
66 of the owners of said lots or fractional parts of lots, appoint
67 a day to hear the grievances of said owner or owners, and
68 may alter or amend any assessment made against any one or
69 more of said owners for good cause shown. The city clerk
70 shall give notice to all persons claiming to be injured by said
71 assessment, of the time and place of holding the meeting of
72 the council to hear such grievances, which meeting shall be
73 held within ten days after the clerk shall have given the last
74 mentioned notice. The council may adjourn the hearing
75 from time to time.

76 In case any owner or owners of abutting property shall
77 fail within such thirty days to complain to the council of
78 any grievance or injury they may have suffered, by reason
79 of the assessment aforesaid, or to appear before the council

80 for the purpose of having the same corrected on the day ap-
81 pointed by the council for the hearing of such grievances as
82 have been complained of, the assessment as laid shall be
83 final. The findings of said council shall be subject to correc-
84 tion by said circuit court, upon appeal, which must be taken
85 and perfected within thirty days from the finding and be
86 heard and determined by such court without delay, having
87 precedence of other cases on the court's docket. The rights
88 conferred by this section are cumulative and shall not be ex-
89 hausted as to any particular street or alley by reason of hav-
90 ing been once exercised.

91 One-tenth of the amount assessed against the property
92 owner of the cost of the paving shall be paid within one year
93 after the completion and acceptance of the work, and the
94 remaining nine-tenths thereof shall be paid in nine equal an-
95 nual installments, with interest, payable annually, payable
96 at such times as the city shall collect taxes for other purposes.

97 Where the city does the paving which is required to be done
98 by the traction companies under their franchise rights of this
99 charter, one-tenth of the costs thereof shall be due and pay-
100 able within one year after the completion and acceptance of
101 the work, and the remaining nine-tenths thereof shall be paid
102 in nine equal installments, with interest payable annually,
103 payable at such times as the city shall collect taxes for other
104 purposes.

105 The cost of such work shall constitute a lien on all of the prop-
106 erty of the traction companies, which lien may be enforced by
107 a suit in equity in the name of the city in the circuit court of
108 Ohio county, West Virginia, or the same or any installments
109 thereof may be collected by a suit at law before such court.

110 But a lien upon any real estate created by virtue of this sec-
111 tion shall be void as to any purchasers of any such real estate
112 unless the city shall, within sixty days after the completion
113 and acceptance of the paving by the city, cause to be recorded
114 in the office of the clerk of the county court an abstract of such
115 assessment, giving the location of the real estate affected, the
116 name of the owner and the date and amount of the assess-
117 ment, which recordation shall be in a well-bound book to be
118 furnished by the city and be preserved in said clerk's office.

119 And it is hereby made the duty of said county clerk to
120 record said abstracts; for the recordation of each of which

121 said clerk shall receive a fee of twenty-five cents to be paid
122 by the city.

123 All moneys appropriated for the paving, repaving and re-
124 pairing of streets or alleys shall be used for that purpose
125 only, and the revenue received by the city from assessments
126 against any and all property or property owners shall be
127 placed in a "street paving" fund and shall be considered and
128 treated the same as moneys appropriated for that purpose.

Sec. 98. The city council shall elect a civil service com-
2 mission for the purpose of examining applicants for positions
3-5 and promotions in the police and fire departments. The
6 civil service commission shall consist of three citizens, not
7 all of whom shall be of one political party. At the first elec-
8 tion of members of the civil service commission after the pas-
9 sage of this act one member shall be elected for a term of six
10 years, one member for a term of four years, and one member
11 for a term of two years. Thereafter the term of office of each
12 member shall be six years. Any vacancies occurring in the
13 commission shall be filled by the council. For the purpose of
14 conducting tests in the departments specified, the civil ser-
15 vice commission shall conduct practical examinations annually
16 or oftener, fixing grades and classifications as they may de-
17 termine, and a list of those successfully passing the examina-
18 tions prescribed shall be furnished the city manager, such list
19 to be known as the eligible list and selections must be made from
20 among the three applicants rated highest for the appointments
21 necessary to be made. Said list and all examination papers shall
22 be kept on file in the office of the city clerk and available to
23 the public at all times; *provided*, any appointees in the de-
24 partments under civil service shall be subjected to examina-
25 tions from time to time in the interest of efficiency, and that
26 the passing of the required examinations prior to entering the
27 city's employ shall not constitute a life tenure in office. No
28 member of the civil service during his incumbency shall be
29 the holder of any state, county or municipal office.

CHAPTER 74

(Senate Bill No. 293—Mr. Boone)

AN ACT to amend and re-enact section forty-one of chapter five of the acts of the legislature of one thousand nine hundred and nineteen (Municipal Charters), relative to the construction and paving of sidewalks and footways in the city of Ronceverte, and assessing the expense thereof to the owners of lots abutting thereon, and making such expense a lien upon such abutting lot, and providing for the enforcement of such lien.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the Governor April 26, 1923]

SEC.

41. Sidewalks; construction of; assessment for; how paid.

Be it enacted by the Legislature of West Virginia:

That section forty-one of chapter five of the acts of the legislature of West Virginia of one thousand nine hundred and nineteen be amended and re-enacted so as to read as follows:

Section 41. The board of commissioners shall have power
2 to determine the material to be used in building all sidewalks
3 and footways, and shall determine where and how such side-
4 walks and footways shall be constructed, and the width and
5 grade thereof, including any fill, substructure, retaining wall,
6 cut or grade for such sidewalks and footways that the board of
7 commissioners may deem necessary, and shall prescribe the
8 materials with which the same shall be built, and may make
9 an order requiring the owner or owners of the lots or parts
10 of lots abutting on such sidewalk or footway to so construct the
11 same, including any such fill, substructure, retaining wall, cut
12 or grade therefor, and to properly lay the paving thereon, ac-
13 cording to the specifications of the board of commissioners, at
14 the expense of such owner of such abutting lot or lots and under
15 the supervision of the official of the city of Ronceverte desig-
16 nated by the board of commissioners; and if such lot owner
17 fail or refuse to so construct such sidewalk or footway, includ-
18 ing such fill, substructure, retaining wall, cut or grade as may
19 be so prescribed, and to so lay the paving thereon, in the man-
20 ner or within the time required by the board of commissioners,
21 said board of commissioners may cause the same to be done at
22 the expense of the city and assess the amount of such expense

23 upon such lot owner, and the clerk shall notify such lot owner
24 of the amount of such assessment, and if the same be not paid
25 within thirty days from the date of said notice, he shall cause
26 a memorandum showing the name of the owner of said lot,
27 a description of the lot and the amount of such assessment, to
28 be filed in the office of the clerk of the county court of Green-
29 brier county, which shall be entered of record in the judgment
30 lien docket in said office, and the same shall constitute a lien
31 on said property, which may be enforced by a suit in equity in
32 the name of the city in the circuit court of Greenbrier county;
33 and upon the payment of such assessment the city clerk shall
34 issue to the person entitled thereto a release of said lien; *pro-*
35 *vided, however,* that reasonable notice shall first be given to
36 such owner or owners of such abutting lot or lots that he or
37 they are required to construct such sidewalk or footway, and
38 also any fill, substructure, retaining wall, cut or grade that may
39 be deemed necessary by the board of commissioners, and to so
40 pave the same; and in case the owner is a non-resident of the
41 state, the notice aforesaid may be given by publication for
42 four consecutive weeks in a newspaper published in the city.
43 The provisions of this section shall also be applicable to needed
44 repairs to any of the sidewalks or footways of the city, and to
45 the substitution of new pavements for any which may have been
46 heretofore or which hereafter may be laid and completed, and
47 which may be deemed insufficient.

CHAPTER 75

(Senate Bill No. 306—Mr. Arnold)

AN ACT to amend and re-enact sections four, seven, fifteen, twenty and twenty-one of chapter one hundred and fifty-one of the acts of one thousand nine hundred and one, relating to the election of councilmen; the appointment and qualifications of town officials; the authority of the council; and to provide for additional officers and employees, and conferring necessary powers for and within the city of Elkins; and providing for submission of these amendments to the voters of said city at a regular election.

[Passed April 24, 1923. In effect from passage. Approved by the Governor May 1, 1923]

SEC.

4. Mayor and councilmen; who to elect, compensation of.
 7. Appointive officers, qualifications.
 15. Council; authority to provide for additional officers and conferring necessary powers; to define duties of such officers; compensation; bonds of officers; removal; proviso; chief of police, his powers; keeper of jail; fines by mayor; penalties, etc.; how recovered; collector and treasurer, duties and powers of.
 20-a. Mayor, his executory powers; judicial powers; exception;

SEC.

- power to issue attachments but not to try; process, where executed; to control police; powers and duties as conservator of peace; power to issue execution for fines; power to commit; limit to imprisonment; appeal, appeal bond; to recommend to council, what; jail expenses; mayor's bond; money's received.
 b. City manager; term of office; removal; duties and powers of.
 21. City clerk; duties and powers of; provision for referendum.

Be it enacted by the Legislature of West Virginia:

That sections four, seven, fifteen, twenty and twenty-one of chapter one hundred and fifty-one of the acts of one thousand nine hundred and one, relating to the charter of the city of Elkins, be amended and re-enacted so as to read as follows:

Section 4. The municipal authorities of said city shall consist of a mayor to be elected by the voters of the whole city, two councilmen from each ward, to be elected by the voters of such ward, ten councilmen as provided by this charter, but the number thereof to be increased or diminished as the number of wards be increased or diminished, who, together shall form a common council and who shall receive as compensation fifty dollars per annum, unless the council, by ordinance, change such compensation, and which compensation shall not be increased or diminished during their term of office.

Sec. 7. There shall be a city manager, chief of police, city attorney, city assessor, city collector and treasurer and city clerk, who, at the time of their election or appointment (except the city manager), shall be entitled to vote for members of the common council. The several offices or any two or more of them may be held by the same person, except that the office of city manager shall be deemed incompatible with any other office. These several offices shall be filled by appointment by the common council and held by the appointees during the pleasure of the council and until their successor shall be appointed and qualify. *Provided, however,* that the common council by ordinances may provide for the election of any of said officers, except city manager, and prescribe their term of office at not less than one or more than two years.

Sec. 15. The council shall also have authority to provide, 2 by ordinance, for the appointment of such other officers as shall 3 be necessary and proper to carry in full force the authority, 4 capacity, jurisdiction and duties of said city, which is or shall 5 be vested therein, or in the council, or in the mayor, or in any 6 other officer or body of officers thereof, and to grant to the 7 officers so appointed the power necessary or proper for the 8 purposes above mentioned. The council, by ordinance, shall 9 define the duties of all officers so appointed or elected as afore- 10 said, but shall not by ordinance diminish any powers conferred 11 upon the city manager by the charter, and allow them reason- 12 able compensation' which shall be by monthly or quarterly 13 salaries and not otherwise, except as to the collection of taxes, 14 and fees of the mayor and chief of police in criminal convictions 15 wherein the fees are recovered from the defendant, which com- 16 pensation shall not be increased or diminished during their 17 term of office; and shall require and take from all of them whose 18 duty it shall be to receive its funds, assets or property, or have 19 charge of the same, such bonds, obligations or other writings as 20 they shall deem necessary or proper to insure the faithful per- 21 formance of their several duties. All officers whether ap- 22 pointed or elected may be removed from office for mal-feasance, 23 non-feasance or mis-feasance by the council, but provided al- 24 ways that any appointed officer who holds his office at the 25 pleasure of the council may be removed from his office at any 26 time without notice, except that when any term of office may be 27 fixed by ordinance, such officer shall not be removed during 28 said term except for cause and upon notice. The chief of 29 police shall have all powers, rights and privileges within the 30 corporate limits of said city in regard to the arrests of persons, 31 the collection of claims, the execution and return of process, 32 that can be legally exercised by a constable of a district within 33 this state; and may without having any warrant or other 34 process therefor arrest any person who commits any offence 35 against the laws of this state or infraction of the ordinances 36 of said city, in his presence. He shall be ex-officio the keeper 37 of the jail and have charge of the city prisoners confined therein, 38 and may confine any persons arrested by him in the city jail 39 until such time as the charges against such person can be in- 40 quired into by the mayor. Any person fined by the mayor 41 for infraction of any of the ordinances of the city may pay

42 such fine to either the mayor or chief of police; and the said
43 chief of police and his sureties shall be liable to all fines, pen-
44 alties and forfeitures that a constable of a district is liable to
45 for any failure or dereliction in his said office, to be recovered
46 in the same manner and in the same courts that the said fines,
47 penalties and forfeitures are now recovered against a district
48 constable. It shall be the duty of the collector and treasurer
49 to collect city taxes, licenses, levies, assessments and other such
50 city claims as are placed in his hands for collection by
51 the council, and may distrain and sell therefor in like manner
52 as a sheriff may distrain and sell for state taxes, and he shall in
53 all other respects have the same powers as the sheriff to enforce
54 the payment and collection thereof. Said collector shall also
55 perform such other duties as the council may from time to
56 time prescribe.

Sec. 20. (a) The mayor shall be the chief executive
2 officer of the city and shall take care that the orders, by-laws,
3 ordinances, acts and resolutions of the council thereof are
4 faithfully executed, except in so far as such duties may con-
5 flict with the power and authority herein conferred by this act
6 upon the city manager, or that may hereafter be conferred by
7 by ordinance upon the city manager. The mayor shall be ex-
8 officio a justice and conservator of the peace within the city,
9 and shall within the same have, possess and exercise all the
10 powers and perform all the duties vested by law in a justice of
11 the peace, except he shall have no jurisdiction in civil cases or
12 causes of action arising out of the corporate limits of the city
13 unless the defendant resides or is found therein and process
14 therein served upon him. He shall have the same power to
15 issue attachments in a civil suit as a justice of the county has,
16 but in such cases he shall have no power to try the same, but
17 such attachments shall be made returnable and heard before a
18 justice of the peace of his county. Any warrant or other
19 process issued by him may be executed at any place in the
20 county. He shall have control of the police of the city and may
21 appoint special police officers whenever he deems it necessary
22 and may suspend any police officer until the next regular meet-
23 ing of the council. And it shall be his duty especially to see that
24 the peace and good order of the city are preserved, and that
25 persons and property therein are protected, and to this end
26 he may arrest, or cause the arrest and detention of all violators

27 of the laws of the state and ordinances of the city, before
28 issuing his warrant therefor, if the offense is committed in
29 his presence. He shall have power to issue executions for all
30 fines, penalties and costs imposed by him, or he may require
31 the immediate payment thereof and in default of such pay-
32 ment commit the party in default to the jail of the county of
33 Randolph or other place of imprisonment in such corporation,
34 if there be one, until the fine or penalty and costs shall be
35 paid, but the term of imprisonment in such cases shall not ex-
36 ceed thirty days. And in all cases when a person is sentenced
37 to imprisonment or to the payment of a fine of ten dollars or
38 more (and in no case shall a judgment for a fine be for less
39 than ten dollars if the defendant, his agent or attorney object
40 to a less fine being imposed), such person shall be allowed an
41 appeal from such decision to the circuit court of the county of
42 Randolph upon the execution of an appeal bond with security
43 deemed sufficient by the mayor, in a penalty sufficient to cover
44 the fine and costs before the mayor, and the costs in the circuit
45 court in case said judgment be affirmed, with condition that
46 the person proposing to appeal will perform and satisfy any
47 judgment which may be rendered against him by the circuit
48 court on such appeal. If such appeal be taken the warrant of
49 arrest, (if any) a transcript of the judgment, the appeal bond
50 and other papers in the case, shall be forthwith delivered by
51 the mayor to the clerk of said court, and the court shall pro-
52 ceed to try the case as upon the indictment or presentment,
53 and render such judgment, including costs, as the law and the
54 evidence may require. The mayor shall from time to time
55 recommend to the council such measures as he may deem need-
56 ful for the welfare of the city. The expense of maintaining any
57 person committed to the jail of the county by him, except it be
58 to answer an indictment, shall be paid by the city and taxed as
59 costs against the defendant. The mayor before acting shall
60 execute bond with good security in the penalty of not less than
61 one thousand dollars, or in such additional penalty as the
62 council may require, subject to the approval of the council,
63 with the same conditions as required in bonds executed by
64 justice of the peace by chapter fifty of said code; and all the
65 provisions of said chapter relating to money received by a
66 justice apply to like moneys received by the mayor.

67 (b) The city manager shall hold office during the pleasure
68 of the council and may at any time be removed from office by
69 the affirmative vote of two-thirds of all the members of the
70 council.

71 The city manager shall occupy an office for the transac-
72 tion of the public business in the building or buildings occu-
73 pied by the city government, which office shall be kept open
74 on all secular days except legal holidays for the transaction of
75 the public business. He shall devote all of his time to the
76 discharge of his official duties and while holding the office
77 shall not engage in any other business or employment or hold
78 any other office. In addition to all other powers which may be
79 conferred upon the city manager by the city council or by the
80 laws of the state of West Virginia, he shall exercise the follow-
81 ing powers:

82 (1) Supervise, control and direct the affairs and business
83 of all of the administrative offices created in section eleven of
84 this act, or which shall hereafter be created by the council
85 under the authority therein contained, except the police de-
86 partment.

87 (2) Employ and discharge all employees, except elected
88 officers, officers appointed by the council and employees of the
89 police and fire departments, and he shall make semi-monthly
90 reports to the mayor as to the efficiency of all appointive offi-
91 cers and of the police and fire department, and in the absence
92 of the mayor or his inability to act, shall have such power as
93 is now vested in the mayor for the suspension of appointive
94 or other officers. He shall likewise submit recommendations to
95 the council as to any and all appointive officers.

96 (3) Enforce in favor of the inhabitants of the city all
97 terms and conditions in their favor contained in any public
98 utility franchise and require the faithful discharge of obliga-
99 tions of all public utilities.

100 (4) Attend all meetings of the council with the right to
101 take part in the discussion of all measures.

102 (5) Recommend to the council for adoption such measures
103 and resolutions as he may deem expedient.

104 (6) Act as budget commissioner and keep the city council
105 fully advised as to the financial condition and needs of the
106 city.

107 (7) Determine and recommend the plan and program for
108 paving, sewerage and otherwise improving the different streets

109 and alleys in the city and recommend the order of time in which
110 such streets and alleys shall be paved, sewerred and otherwise
111 improved.

112 (8) Determine and recommend the kind and character of
113 pavements, sidewalks, curbs, sewers and other improvements
114 which shall be constructed and made upon and in any of the
115 streets and alleys of the city.

116 (9) Recommend to the council as to the employment of
117 competent experts to advise with him in planning the improve-
118 ments of city streets and alleys, in specifying the kind and
119 character of pavements, sidewalks, curbs and sewers, which
120 shall be laid and constructed, and to supervise the performance
121 of the work in paving, sewerred and improving any street or
122 streets, and alley or alleys, and by contract to specify and fix
123 the compensation which any expert so employed by the city
124 manager shall receive for his services, which contract shall not
125 become binding or effective until approved by the city council
126 and the fact of such approval entered of record.

127 (10) Authenticate all ordinances and resolutions passed
128 by the council and sign the minutes of all meetings of the
129 council. Immediately upon the meeting of the council the
130 minutes of the preceding meeting shall be read and corrected
131 if they contain any errors, and they shall be signed by
132 the city manager and city clerk before the council proceeds
133 to the transaction of any business.

134 (11) Act as purchasing agent and purchase all supplies
135 and material for all departments of the city government, and
136 make sale of all property of the city not needed or suitable
137 for the public use in such manner as the council may direct;
138 *provided, however*, he shall not make any contract or purchase
139 involving an expenditure in excess of five hundred dollars
140 without first obtaining the assent of the council so to do. All
141 supplies to be used by the city and all material purchased by
142 the city for construction of any public improvement shall be
143 purchased on competitive bids. All proposals for such
144 shall be upon precise specifications, and notice of the
145 requirements of the city shall be given to dealers in
146 supplies and materials of the kind required who by
147 reason of location are best able to furnish the same at the low-
148 est price. All offers to sell supplies and materials to the city

149 shall be attached to the accepted offer and filed and preserved
150 in the office of the city clerk. All purchases shall be audited
151 by the city council and only on approval of the council shall
152 payment be made; *provided, however*, that limited quantities
153 of supplies and materials may be purchased in cases of
154 emergency without the delay necessary to secure competitive
155 bids or offers to supply the same.

156 (12) The city manager shall exercise any and all other
157 powers conferred by the present laws of the state of West
158 Virginia upon mayors of cities, towns or villages, or which
159 shall be conferred upon such officers by any law hereafter
160 enacted, not in conflict with the provisions of this act, except
161 the powers herein, or in any such law, contained relating to
162 the preservation of order and the enforcement of penal
163 ordinances and statutes, which powers in this act are vested in
164 mayor, and to perform such other duties and acts as the
165 council may from time to time direct.

Sec. 21. The city clerk shall keep an accurate record of the pro-
2 ceedings of the council, and have charge of and preserve the rec-
3 ords of the city, and in case of the absence from the city, or in
4 case of the sickness or inability of the mayor to act, or during any
5 vacancy in the office of mayor, he shall perform such duties of the
6 mayor as pertain to him as chief executive of the city and be vested
7 with all power necessary for the performance of such duties, but
8 shall not be vested with any of the authority of the mayor, per-
9 taining to civil suits. He shall be a conservator of the peace
10 within the city. He shall also perform such other duties as the coun-
11 cil may from time to time by order or ordinance prescribe or direct.

12 This act shall not be effective unless the same shall first be
13 submitted to the voters of the said city at a regular election
14 called for that purpose and adopted by a majority of the votes
15 cast at said election. This act shall be published by the council
16 once a week for two weeks immediately preceding said regular
17 election, in two newspapers of opposite political faith publish-
18 ed in said city. Said regular election shall be conducted in
19 the regular manner of holding municipal elections in said city.
20 If this act is adopted at said election, that fact shall immedi-
21 ately be proclaimed by the mayor of said city and it shall go
22 into effect when the municipal officers elected at said election
23 shall enter upon their respective duties.

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

- 26 City of Elkins
 27 Charter Election
 28 (Indicate how you desire to vote by a cross in the square.)
 29 [] For Adoption of Amended Charter.
 30 [] Against Adoption of Amended Charter.

CHAPTER 76

(House Bill No. 1—Mr. Moore)

AN ACT to amend and re-enact sections four, seven, nineteen, thirty, thirty-three, thirty-seven, forty-nine and fifty-two of chapter eighty-two of the acts of the legislature of West Virginia for the year one thousand nine hundred and eleven as amended and re-enacted by chapter sixteen, acts one thousand nine hundred and twenty-one, (Municipal Charters) and adding to section forty-nine an additional section known as forty-nine-b relating to the charter of the city of Moundsville, in the county of Marshall; making the chief of police appointive, fixing salaries of certain officers, conferring additional power with respect to the making of sewer assessments and providing for the issuing of bonds for the erection of a garbage disposal plant and purchase of fire equipment.

[Passed January 19, 1923. In effect from passage. Became a law without approval of Governor]

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| <p>SEC.
 4. Officers; how elected and appointed; qualifications.
 7. Same; terms of office; compensation.
 19. Mayor; duties and powers proviso as to bond; salary and fees.
 30. Clerk; duties and powers; salary.
 33. Chief of police; duties, bond and salary; bond of policemen.</p> | <p>SEC.
 37. Street commissioner; duties and compensation.
 49-b. Sewers; how payment for assessed and collected.
 52. Improvement bonds for water plant, incinerator, etc; conditions governing sale of same; refunding bonds; acts in conflict repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

That sections four, seven, nineteen, thirty, thirty-three, thirty-seven, forty-nine and fifty-two of chapter eighty-two of the acts of the legislature of West Virginia for the year one thousand nine hundred and eleven, as amended and re-enacted by chapter sixteen, acts one thousand nine hundred and twenty-one (Municipal Charters) be amended and re-enacted so as to read as follows; and that section forty-nine-b, be added thereto.

Section 4. The officers of said city shall be a mayor, clerk, 2 who shall be ex-officio collector; solicitor, chief of police, health 3 officer, treasurer, street commissioner, city engineer, sewer in- 4 spector, and two councilmen from each ward. The mayor shall 5 be elected by the qualified voters of said city.

6 The chief of police, clerk, health officer, solicitor, street com- 7 missioner, treasurer, sewer inspector and city engineer shall be 8 appointed by the council, and the councilmen shall be elected 9 by the qualified voters of their respective wards. No person 10 shall be eligible to the office of mayor unless he is a qualified 11 voter thereof, nor unless he has resided therein for at least six 12 months before his election; and in the case of a councilman, 13 unless he is a *bona fide* resident of the ward from which he is 14 elected, and a freeholder of said city; and the removal of a 15 councilman from the ward in which he was elected, or his ceas- 16 ing to be a freeholder in said city, shall vacate his office, and no 17 person shall be eligible to any city office unless he be a taxpayer 18 and a qualified voter thereof.

19 In addition to the municipal authorities mentioned in this 20 section the council may from time to time create and employ 21 other officers and agents and fix their salaries and compensa- 22 tions.

Sec. 7. The term of office of the mayor shall begin on the 2 first Monday in April next succeeding his election and shall 3 be for the term of two years, and until his successors shall 4 have been elected and qualified. The chief of police, clerk, 5 solicitor, treasurer, health officer, street commissioner, city en- 6 gineer and sewer inspector shall be appointed by the council 7 and shall hold their office during the pleasure of the council. 8 Any former incumbent shall be ineligible for a second appoint- 9 ment unless he shall have fully settled up the business of his 10 former term or terms. At the first election held after this act 11 goes into effect, there shall be elected a mayor, whose term of 12 office shall begin on the first Monday in April next succeeding 13 his election and shall be for the term of two years, and until 14 his successor is elected and qualified; and one councilman from 15 each ward, whose term of office shall begin on the first Monday 16 in April next succeeding his election, and who shall hold office 16a for the term of four years, and until his successor is elected and 17 qualified. On the same day in each succeeding two years one 18 councilman from each ward shall be elected and shall hold office 19 for four years from the first Monday in April next succeeding

20 his election and until his successor is elected and qualified. But
21 nothing in this section shall be construed to invalidate the elec-
22 tion or term of office of any councilman elected to office and
23 whose term of office began on the first Monday in April in the
24 year one thousand nine hundred and twenty-one, under the
25 provisions of section seven of the charter of said city of the act
26 of one thousand nine hundred and twenty-one.

27 The council of said city shall have the right to fix a compensa-
28 tion for the members thereof, which compensation, however, shall
29 not exceed one hundred fifty dollars per year to each member.

Sec. 19. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 regulations of the council thereof are faithfully executed; he
4 shall be ex officio a justice and conservator of the peace within
5 the city and shall within the same have, possess and may exer-
6 cise, all the powers and perform all the duties whether in
7 civil or criminal proceedings, vested by law in a justice of the
8 peace. Any summons, warrant or other process, issued by
9 him, may be executed at any place within the county; he shall
10 have power during the recess of the regular meetings of council
11 to appoint special police officers when he shall deem it neces-
12 sary, and it shall be his duty to see that the peace and good
13 order of the city are preserved, and that persons and property
14 therein are protected; and to this end he may arrest and detain,
15 or cause the arrest and detention, of all riotous and disorder-
16 ly persons before taking other proceedings in the case; he
17 shall from time to time recommend to the council such measures
18 as he may deem needful for the welfare of the city; he shall
19 not receive any money due or belonging to the state or corpora-
20 tion or to individuals, unless and until he shall have given
21 the bond and security required of a justice of the peace by
22 chapter fifty of the code of West Virginia; and all the pro-
23 visions of said chapter relating to moneys received by justices
24 shall apply to moneys received by him in like cases.

25 The mayor shall receive a salary of not less than five hundred
26 nor more than fifteen hundred dollars per annum; such salary
27 shall be in lieu of the fees which would otherwise accrue to him
28 in proceedings for the enforcement of ordinances, but all such
29 fees shall be collected when practicable and accounted for to
30 the city, and he may tax such costs against any person or cor-
31 poration found guilty of the violation of any ordinance of the

32 city, as are provided to be taxed and recovered by justices
33 of said county in criminal cases.

Sec. 30. The said clerk shall receive all taxes, assessments,
2 fines and costs and other money due the city authorized by this
3 act, or by any ordinance of the said city, to be paid to the city,
4 and shall receipt for same; he shall keep an accurate account of
5 all money paid to him for the use of said city, showing under
6 separate accounts the amounts received for account of taxes,
7 sewer purposes, street pavement, licenses, fines and costs and
8 of other matters pertaining to his office, which books shall at
9 all time be open to the inspection of the council or to any com-
10 mittèe appointed by it for such purpose; he shall pay over
11 promptly all money which he may receive, within five days
12 after the receipt thereof, into the hands of the treasurer of the
13 said city, showing an itemized statement of the several funds
14 included in said payment, taking the treasurer's receipt there-
15 for; he shall keep his office at the office of the mayor, unless
16 otherwise ordered by the council, and shall keep his office open
17 for the transaction of business during usual business hours,
18 and as may be directed by council; he shall on or before the first
19 day of January and July of each year and oftener if directed
20 by council, present to the council a full, complete and de-
21 tailed statement of all money with which he is chargeable, or
22 that has been received by him from all sources up to that time,
23 together with a statement of all money paid to the treasurer,
24 and proper receipts therefor, and he shall at such times return
25 a list of all taxes, levies, assessments, and other claims in his
26 hands for collection which he shall not have been able to col-
27 lect by reason of insolvency, removal, or other cause, to which
28 list he shall append an affidavit that he has used due diligence
29 to collect the several items therein mentioned, but has been un-
30 able to do so, and if the council should be satisfied as to the
31 correctness of said list, it shall allow him a credit for said claims,
32 but may thereafter take such lawful measures to collect the
33 same as shall be by it prescribed. The said clerk shall receive
34 all taxes on licenses, and receipt to the party paying the same by
35 endorsement upon the permit granted by order of the council
36 and shall charge himself with the amount received from the
37 same, and report to the council at the next regular meeting
38 thereafter, the amount so received, and pay the same over to
39 the treasurer, taking his receipt for the same; he shall, upon

40 the expiration of his term of office, or upon the order of
41 council, turn over to his successor all money, books of account
42 and other property of said city in his possession; he shall
43 receive such salary as may be fixed by the council, which shall
44 not be less than at the rate of one thousand dollars, nor more
45 than eighteen hundred dollars per annum.

Sec. 33. It shall be the duty of the chief of police to pre-
2 serve order and quiet in said city, and to see that all subor-
3 dinate police officers faithfully perform their official duties,
4 and he may for good cause appearing to him, for neglect of
5 duty or insubordination, suspend any such officer from duty,
6 and report his action and his reason therefor to the next regu-
7 lar meeting of council for action thereon; he shall make a
8 list of all dogs within said city liable to tax, collect the
9 license tax thereon and pay the same to the clerk, as may be
10 provided by ordinance of said city; he shall be present in the
11 police court whenever the same shall be in session, and see
12 that all its orders and requirements are properly executed; he
13 shall with the consent of the council entered of record, but
14 not otherwise, appoint one or more policeman, as the council
15 may determine; he shall, before entering upon the discharge of
16 his duties, execute a bond conditioned for the faithful per-
17 formance by him of the duties of his office, and for the ac-
18 counting for any paying over, as required by law, all money
19 which may come into his hands by virtue of his office, with
20 sureties satisfactory to the council, in a penalty of not less
21 than one thousand dollars nor more than five thousand dollars,
22 as the council may prescribe; he shall receive such salary as
23 may be fixed by council, which shall not be less than twelve
24 hundred dollars nor more than eighteen hundred dollars per
25 annum.

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

Sec. 37. The street commissioner shall perform such duties
2 as are now, or which may hereafter be imposed upon him by

3 any ordinance of said city, and shall receive such compensa-
4 tion as may be fixed by council, which shall be at the rate
5 of not less than one thousand dollars nor more than fifteen
6 hundred and fifty dollars per annum.

Sewers

Sec. 49-b. In case any sewer is constructed as provided for
2 in section forty-nine of chapter eighty-two, acts one thousand
3 nine hundred and eleven, to be paid for by an appropriation
4 from funds in the treasury unappropriated the same shall be
5 assessed and become due and collectible as provided by sections
6 forty-seven and forty-eight of chapter eighty-two, acts one
7 thousand nine hundred and eleven, relating to sidewalks and
8 street paving.

Bonds—Additional Levy

Sec. 52. The municipal authorities of said city shall have the
2 power and authority to issue and make sale of the bonds of
3 the said city and to apply the proceeds thereof to the payment
4 for any general improvement therein, including the purchase
5 by said city of the plant of the Moundsville Water Company,
6 a corporation, and also to provide ground for and erect an
7 incinerator plant or garbage crematory, or other plant or
8 means for the disposal of garbage or refuse and to provide
9 additional fire apparatus and equipment for the fire department
10 of said city; and such bonds shall be sold for not less than
11 par and payable in a period not to exceed thirty-four years,
12 and shall bear interest not to exceed five per centum per annum;
13 and in the issuance and sale of said bonds the city shall be
14 governed by all the restrictions of the constitution of this state
15 and the statutes of this state, with respect to the issuance and
16 sale of other bonds; *provided*, that said city shall not, by the
17 sale or issue of bonds for the purposes above mentioned, cause
18 the aggregate of its indebtedness, of every kind whatever, to ex-
19 ceed five per centum of the value of the taxable property there-
20 in, but may for the above purposes issue bonds to the maximum
21 limit of said five per cent; nor shall said city make such issue
22 and sale of bonds without, at the same time, providing for the
23 collection of a direct annual tax sufficient to pay annually
24 the interest on the same and a sinking fund to pay the prin-
cipal within the time for which said bonds shall be issued.

26 The council may submit to the voters of said city the question
27 of making an additional levy, and if three-fifths of the votes
28 cast therein be in favor of such increased levy the council
29 may levy the same.

30 *Refunding Bonds*

31 The council may refund the lawful bonded indebtedness of
32 said city by issuing bonds of the city, payable within twenty
33 years, bearing no greater rate of interest than five per cent,
34 but the indebtedness of said city shall not thereby be increased
35 without the consent of the voters of said city being first had
36 and obtained as provided by law.

37 Such bonds shall not be sold or exchanged for the evidence
38 of said indebtedness of said city for less than par, and there
39 shall be provided a sinking fund that will discharge said bonds
40 as they shall become due. Said bonds shall express on their face
41 that they may be paid at any time after five years at the pleasure
42 of the city. A record shall be kept of all proceedings hereunder;
43 *provided*, that nothing herein contained shall be construed to
44 authorize an increase of the bonded indebtedness of said city
45 beyond the amount authorized by law.

46 All acts or parts of acts inconsistent herewith are hereby
47 repealed.

CHAPTER 77

(House Bill No. 15—Mr. Scanlon)

AN ACT to amend and re-enact section two of chapter eleven of the
acts of one thousand nine hundred and twenty-one, (Municipal
Charters) relating to the southern boundary of the city of
Huntington.

[Passed April 24, 1923. In effect ninety days from passage. Became a law
without approval of Governor]

SEC.
2. Corporate limits.

Be it enacted by the Legislature of West Virginia:

That section two of chapter eleven of the acts of one thousand nine
hundred and twenty-one (Municipal Charters) be amended and re-
enacted to read as follows:

Section 2. The corporate limits of the city of Huntington
2 shall be as follows, to-wit:

3 Beginning at a stake at low water mark on the Ohio river
4 southerly side thereof about one mile above the mouth of
5 Guyandotte river at the west side of the Peck farm, thence
6 southerly with the west line of the Peck farm to the top of the
7 river hill; thence westerly with the top of the river hill to the
8 east line of the Southland addition to the city of Huntington, a
9 map or plat of which addition is filed in the county court clerk's
10 office of said county and state; thence with the easterly line
11 of said Southland addition, southerly to the south line of same;
12 thence with the easterly line of said addition extended south-
13 erly to the top of the bank on the west side of Pats' branch;
14 thence southwesterly with the west bank of said Pats' branch to
15 the east side of the Guyandotte river at low water mark; thence
16 south-easterly with the low water mark of the Guyandotte river
17 and on the easterly side thereof to a point directly opposite the
18 mouth of Crump branch, a tributary of the Guyandotte river, on
19 the westerly side thereof; thence westerly in a straight line and
20 crossing the Guyandotte river to the mouth of said Crump
21 branch; thence southerly with the westerly line of the Isaac
22 Crump lands to what is known as the military line; thence
23 westerly with the said military line to its intersection with the
24 southeasterly corporation line of the city of Huntington, as here-
25 tofore constituted by chapter one hundred and fifty of the acts
26 of the legislature of one thousand nine hundred and one to the
27 Huntington-Hamlin Pike; thence in a westerly direction to a
28 point on the west side of the McCoy (Eighth Street) road two
29 feet northeast of the northeasterly corner of the F. L. Wey-
30 mouth land; thence westerly across the McCoy road to the north-
31 easterly corner of the F. L. Weymouth land; thence following
32 the northeasterly line of F. L. Weymouth's land and the north-
33 erly line of the land of F. L. and F. A. Weymouth to the inter-
34 section of the present corporation line at the left fork of Hisey
35 Creek; thence westerly with the northern bank of the said left
36 fork to its intersection with the right fork; thence westerly with
37 the northerly bank of Hisey Fork of Four Pole Creek to where
38 said old corporation line crosses said Hisey Fork; thence in a
39 northerly direction to the northerly branch of Four Pole creek,
40 as heretofore constituted by chapter one hundred and fifty of
41 the acts of the legislature of one thousand nine hundred
42 and one; thence in a westerly direction and down Four Pole
43 creek with the northerly bank thereof to the intersection of said

44 creek with Hisey Fork of said creek; thence with the northerly
 45 bank of Four Pole creek westerly and down the same to the
 46 intersection of said creek with the southerly line of the right-
 47 of-way of the Chesapeake & Ohio railway company; thence
 48 continuing westerly with the said southerly line of the right-
 49 of-way of said railway company to its intersection with the
 50 division line between Wayne and Cabell counties; thence with
 51 the division line between Wayne and Cabell counties in a north-
 52 erly direction to the low water mark of the south side of the
 53 Ohio river; thence easterly with the low water mark of the Ohio
 54 river on the southerly side thereof to the point of beginning.

CHAPTER 78

(House Bill No. 541—Mr. Scanlon)

AN ACT to amend chapter eleven of the acts of the legislature of one thousand nine hundred and twenty-one (Municipal Charters), in relation to the charter of the city of Huntington, by amending certain sections of said chapter, and by amending and re-enacting certain other sections, and adding thereto certain new sections, as hereinafter set out.

[Passed April 25, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.	SEC.
2. Corporate limits; city of Huntington, defined.	road; (g) other powers of commissioners; (h) sewer construction; (i) notice for bids; (j) cost specified by ordinance; (k) commissioners may lay off land in lots for assessment purposes.
3. Tenth ward.	
3-a. Franchises heretofore awarded not annulled.	67. Contracts let by commissioners; form of improvement certificates; form of coupons.
3-b. Assessment of property.	68. Commissioners authorized to construct sewers, etc.; inconsistent acts repealed.
7. Citizen's board created.	
62. Certain tax exemptions.	
65. (a) Paving, grading and curbing; (b) payments, how made; (c) assessments of cost of improvements; (d) making improvements; (e) payment by city; (f) cost charged to rail-	

Be it enacted by the Legislature of West Virginia:

That sections two, three, three-a, seven, sixty-two, sixty-five, sixty-seven and sixty-eight, of chapter eleven (Municipal Charters) of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, be amended and re-enacted, and that section three-b be added thereto, all so as to read as follows:

Sec. 2. The corporate limits of the city of Huntington shall 2 be as follows, towit:

3. Beginning at a stake at low water mark on the Ohio river
4 southerly side thereof about one mile above the mouth of
5 Guyandotte river at the west side of the Peck farm, thence
6 southerly with the west line of the Peck farm to the top of the
7 river hill; thence westerly with the top of the river hill to the
8 east line of the Southland addition to the city of Huntington, a
9 map or plat of which additions is filed in the county court clerk's
10 office of said county and state; thence with the easterly line
11 of said Southland addition, southerly to the south line of same;
12 thence with the easterly line of said addition extended south-
13 erly to the top of the bank on the west side of Pats' branch;
14 thence southwesterly with the west bank of said Pat's branch to
15 the east side of the Guyandotte river at low water mark; thence
16 south-easterly with the low water mark of the Guyandotte river
17 and on the easterly side thereof to a point directly opposite the
18 mouth of Crump branch, a tributary of the Guyandotte river, on
19 the westerly side thereof; thence westerly in a straight line and
20 crossing the Guyandotte river to the mouth of said Crump
21 branch; thence southerly with the westerly line of the Isaac
22 Crump lands to what is known as the military line; thence
23 westerly with the said military line to its intersection with the
24 southeasterly corporation line of the city of Huntington, as here-
25 tofore constituted by chapter one hundred and fifty of the acts
26 of the legislature of one thousand nine hundred and one to the
27 Huntington-Hamlin Pike; thence in a westerly direction to a
28 point on the west side of the McCoy (Eighth street) road two
29 feet northeast of the northeasterly corner of the F. L. Wey-
30 mouth land, thence westerly across the McCoy road to the north-
31 easterly corner of the F. L. Weymouth land; thence following
32 the northeasterly line of F. L. Weymouth's land and the north-
33 erly line of the land of F. I. and F. A. Weymouth to the inter-
34 section of the present corporation line at the left fork of Hisey
35 creek; thence westerly with the northern bank of the said left
36 fork to its intersection with the right fork; thence westerly with
37 the northerly bank of Hisey Fork of Four Pole creek to where
38 said old corporation line crosses said Hisey Fork; thence in a
39 northerly direction to the northerly branch of Four Pole creek,
40 as heretofore constituted by chapter one hundred and fifty of
41 the acts of the legislature of one thousand nine hundred
42 and one; thence in a westerly direction and down Four Pole
43 creek with the northerly bank thereof to the intersection of said

44 creek with Hisey Fork of said creek; thence with the northerly
45 bank of Four Pole creek westerly and down the same to the
46 intersection of said creek with the southerly line of the right-
47 of-way of the Chesapeake & Ohio railway company; thence
48 continuing westerly with the said southerly line of the right-
49 of-way of said railway company to its intersection with the
50 division line between Wayne and Cabell counties, and thence
51 continuing in a westerly direction with a line 200 feet south of,
52 and parallel with, the southerly line of said railway right-of-way
53 to a point of its intersection with the easterly corporation line of
54 the town of Ceredo, in Wayne county; thence in a northerly
55 direction with said easterly corporation line of Ceredo to the
56 low water mark of the southerly side of the Ohio river; thence
57 easterly with said low water mark of the Ohio river to the point
58 of beginning. *Provided*, that the territory herein embraced
59 relating to that part of the boundary lying in Wayne county
60 shall always remain in Wayne county.

Sec. 3. That section three of said chapter be amended by adding thereto the following:

TENTH WARD: To include all the territory in said city lying west of the Cabell-Wayne county line.

Sec. 3-a. Any existing franchise or right-of-way heretofore
2 granted to or for any public service corporation on public
3 streets, avenues, alleys, roads and grounds, in that territory
4 not at this time a part of the city of Huntington, but by this
5 act added, under the provisions of this act, and included within
6 the corporate limits of said city, shall not be annulled by the
7 passage of this act, but shall remain in full force and effect
8 according to the terms of the granting thereof; and the passage
9 of this act shall not by operation by law (but may be by action
10 of the city upon application for franchise under the provisions
11 of existing laws relating to the granting of franchises), extend
12 rights under existing franchise held by any public service cor-
13 poration on and in the public streets within the corporate limits
14 of said city immediately prior to the passage of this act, to such
15 public streets, avenues, alleys, roads and grounds of such new
16 or added territory on and in which a competing public service
17 corporation is now operating under a franchise.

Sec. 3-b. Wherein the law now requires, or it may hereafter
2 require, a county assessor to make reports to municipal au-
3 thorities or a municipality within such county as relates to

4 valuations of real estate or personal property situated within
5 the limits of said municipal corporation, or to perform any du-
6 ties as relates to such municipality, the county assessor of
7 Wayne county, as relates to any territory within said county,
8 which may be embraced within the corporate limits of the said
9 city of Huntington, shall make such reports to the municipal
10 authorities of the city of Huntington, and perform any other
11 such duties as he may be required by law to perform in rela-
12 tion to said city.

That section seven of said chapter be amended by adding thereto the following :

Sec. 7. *Provided*, that the Citizens Board of said city, as now
2 existing, shall appoint, within thirty days after this act be-
3 comes effective, two persons for members of said board from the
4 Tenth ward as created by this act. The persons so appointed
5 shall hold said office by reason by such appointment until their
6 successors shall have been elected at the next general city elec-
7 tion ; and the persons so appointed shall be citizens and residents
8 of said Tenth ward, and shall not be members of the same polit-
9 ical party.

Sec. 62. No taxes or levies shall be assessed upon or collected
2 from the taxable persons or property within the corporate
3 limits of said city, for the construction, improvement or keeping
4 in repair of roads or the building, leasing, repairing of school
5 houses, or the purchase of lands for the same, or for the support
6 of schools, or for the support of the poor of Cabell county,
7 or Wayne county outside of said corporate limits, for any year
8 in which it shall appear that said city shall at its own expense
9 provide for its own poor and keep its own roads, streets and
10 bridges in good order. And neither the county court of Cabell
11 county nor Wayne county, nor the authorities of the district in
12 which said city is situated, shall have or exercise jurisdiction
13 within the corporate limits with relation to the roads, streets,
14 alleys, bridges, wharves, docks, ferries, schools or school houses,
15 but the same shall be and remain under the exclusive jurisdic-
16 tion and control of the municipal authorities of said city, except
17 that the board of education in the independent school district
18 of the city of Huntington shall have jurisdiction, supervision
19 and control of the schools and school houses in said independent
20 school district ; and said city shall be liable only for the con-
21 struction, improvement, repair and good order of the roads,
22 streets, alleys, wharves and bridges in its corporate limits.

Sec. 65. (a) The board of commissioners of the city of
2 Huntington may order and cause any avenue, street, road or
3 alley therein to be graded, or curbed or recurbed with stone,
4 concrete or other suitable material, or paved or repaved, be-
5 tween curbs, with brick, wooden blocks, asphalt or other suit-
6 able materials, or to be graded and curbed or recurbed and
7 paved or repaved as aforesaid, or to be macadamized or to be
8 otherwise permanently improved or repaired, under such super-
9 vision as may be directed by ordinance or resolution, upon the
10 best bid to be obtained by advertising for proposals therefor,
11 except the city may do the work without letting it to contract
12 as hereinafter provided in (d) of this section; and may pur-
13 chase or condemn land for opening or widening avenues, streets,
14 roads and alleys. The entire cost, or any part thereof desig-
15 nated by the board of commissioners, of such grading, curbing
16 and paving or macadamizing, or other permanent improve-
17 ments, of any of the avenues, streets, roads and alleys as afore-
18 said, from and including the curb of either side thereof to the
19 middle thereof and the cost, or any part thereof, of purchasing
20 or condemning land as aforesaid for street purposes, may be
21 assessed to and required to be paid by the owners of the land,
22 lots or fractional parts of the lots, fronting or bounding on
23 such avenue, street, road or alley so improved, except as other-
24 wise provided in (c) and (g) of this section.

25 (b) Payment is to be made by all land owners on either side
26 of such portion of any avenue, street, road or alley so paved,
27 opened, widened, or improved in such proportion to the total
28 cost (less the portion, if any, chargeable to the street or other
29 railway company) as the frontage in feet of his abutting land
30 bears to the total frontage of all the land so abutting on said
31 avenue, street, road or alley or portions thereof opened, widen-
32 ed, paved or improved as aforesaid; but the cost of such pav-
33 ing or improvement on said avenue, street, road or alley (not
34 including opening or widening) shall not include any portion
35 or amount paid for the paving or improvement of intersec-
36 tions of avenues, streets, roads or alleys, unless the work be
37 done, and the payment made therefor, as especially provided
38 in (c) and (g) of this section.

39 (c) *Provided*, the board of commissioners of the city of
40 Huntington may order and cause any of the work to be done,
41 and improvements to be made, set out in (a) of this section

42 and in addition to the assessment provided for in (a) of this
43 section, may assess proportionately the property abutting or
44 bounding on such avenue, street, road or alley so improved
45 with the total cost of the paving, grading and curbing or
46 macadamizing or other permanent improvements of the inter-
47 sections of the avenue, street, road or alley so paved or other-
48 wise permanently improved.

49 *Provided, further,* that if the said commissioners propose to
50 order and cause such improvements to be made under this clause
51 of this section, they shall first enact an ordinance or resolution
52 setting forth the work and improvement proposed to be done,
53 the extent of said improvement and manner of paying for the
54 same, which ordinance or resolution shall be published once a
55 week for two consecutive weeks in two newspapers of opposite
56 politics, published and of general circulation in said city. In
57 such publication the commissioners shall set a time of at least
58 ten days from the date of the first publication in which objec-
59 tion and protest may be made against the proposed improve-
60 ment as aforesaid by the owners of the property against which
61 said assessment is proposed to be made, and if, at, or before,
62 such time so set by the commissioners, the *bona fide* owners of
63 more than three-fifths in lineal feet of the property abutting
64 upon the avenue, street, road or alley proposed to be improved
65 as aforesaid, shall file separately or jointly their written pro-
66 test setting forth the fact, under oath, that they are the *bona*
67 *fide* owners of said property, with the board of commissioners,
68 objecting to and protesting against the work to be done and
69 the improvement to be made under this clause in this section.
70 the commissioners shall proceed no further hereunder and
71 shall make note of the discontinuance of such proposed work
72 and improvement under this clause of this section in their
73 minute book. If the owners of more than three-fifths of said
74 property do not file objection or protest as herein provided,
75 the board of commissioners may immediately, by ordinance or
76 resolution, order and direct such work to be done, improve-
77 ment made and the assessments levied against said property in
78 manner set out in this section, and chapter eleven of the acts
79 of the legislature of the state of West Virginia, of one thou-
80 sand nine hundred and twenty-one (municipal charters), as
81 amended by this act. The publication of the ordinance herein
82 provided for shall be sufficient if the title to the same is pub-
83 lished, with a statement of the purposes of the ordinance set-

84 ting out between what points the improvement is proposed to be
85 made, and the method under which payment for the same is
86 to be made, and stating the time at which objections may be
87 heard.

88 (d) The city itself, after any work or improvement is finally
89 ordered to be done or made in manner and form provided in
90 this act, may, at its election, do such work and make such im-
91 provement, and collect the cost thereof, in the manner set out
92 in this act. The decision of the city to do such work, or make
93 such improvement, may be without notice or after the pub-
94 lication of the notice to contractors mentioned in this section,
95 or after the rejection of all bids for doing the same.

96 (e) The cost of grading, curbing and paving, or otherwise
97 improving the intersections, or parts of intersections, of ave-
98 nues, streets, roads or alleys, on the plans adopted by the
99 board of commissioners for such work, shall be paid by the
100 city, except as otherwise provided in (c) and (g) of this sec-
101 tion.

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

110 (g) *Provided*, the board of commissioners, if they so elect,
111 may order and cause any avenue, street, road or alley, includ-
112 ing intersections, public park or public place, to be widened,
113 graded or changed in grade, and curbed or recurbed, and
114 paved or repaved, with brick, concrete, asphalt or any other
115 suitable materials, or macadamized or otherwise permanently
116 improved, including the construction of retaining walls, sew-
117 ers, drains, water pipes, water dams and water courses in con-
118 nection therewith, and may purchase land, or condemn land as
119 provided in this act, and chapter eleven of the acts of the
120 legislature of the state of West Virginia of one thousand nine
121 hundred and twenty-one (municipal charters), as amended by
122 this act, for any public avenue, street, road or alley, or part
123 thereof, or park or other public purposes, and the board may
124 assess all or any part of the entire cost of such improvements

125 (or taking of land or both) upon the abutting, adjacent, con-
126 tiguous and other lots or land especially benefited by such im-
127 provement in the proportion in which such lot or land is
128 specially benefited by the improvement. The board of commis-
129 sioners, when they decide to order the improvements under
130 this plan, shall, by ordinance or resolution, before doing the
131 same, fix the approximate total amount of the special bene-
132 fits to be derived from such improvements to the abutting,
133 adjacent, contiguous and other specially benefited land or lots
134 so assessed and setting out the names of the owners, the approx-
135 imate amount of the special benefits to the lot or land of each
136 owner and the approximate amount of the total cost of the
137 proposed improvements, the board may in fixing such assess-
138 ments take into consideration the assessed value of the lots or
139 land as fixed for the last assessment year for state and county
140 purposes.

141 *Provided, further,* that if the said commissioners propose to
142 order and cause such improvements to be made under this
143 clause of this section, they shall first enact an ordinance or
144 resolution setting forth the work and improvements proposed
145 to be done, the extent of said improvements and manner of
146 paying for the same, which ordinance or resolution shall be
147 published once a week for two consecutive weeks in two news-
148 papers of opposite politics published and of general circulation
149 in said city, in which publication the commissioners shall set
150 a time of at least ten days from the date of the first publica-
151 tion in which objection and protest may be made against the
152 proposed improvement as aforesaid by the owners of the prop-
153 erty against which said assessment is proposed to be made.

154 *Provided, further,* that the owner of any real estate whose
155 property is to be charged for the paving of any street or alley
156 of said city, or for the laying of any sewer therein, or any
157 other improvements named in, and to be done under the pro-
158 visions of this clause, may object to the paving thereof, or the
159 laying of such sewer or making any other improvements under
160 the provisions of this clause, which objection shall be filed
161 with the said board of commissioners within the time set by
162 the board in such publication, which time shall be not less
163 than two weeks from the date of the first publication thereof,
164 and when such objection or objections are so filed, and the said
165 board of commissioners shall nevertheless order the said work

166 and improvements to be done and made, or said sewer to be
167 laid, the said parties so objecting shall have the right of appeal
168 from such order to the citizens board of said city at its next
169 regular meeting, and no further proceedings under such order
170 shall be had until such citizens board shall have passed on such
171 appeal. And the citizens board, in passing on such appeal,
172 shall have the power to reject the said order of the board of
173 commissioners as to such paving, improvement or sewer, and
174 if such order of the board of commissioners is set aside by said
175 citizens board, the same shall be invalid, but on such vote to
176 reject the said order of the board of commissioners, a ma-
177 jority of the members elected to said citizens board must vote
178 to reject said order of the board of commissioners and if, upon
179 such vote, a majority of the members elected to said citizens
180 board do not vote to reject said order, then the said order
181 shall be valid and of full effect.

182 The publication of the ordinance herein provided for shall
183 be sufficient if the title to the same is published with a state-
184 ment of the purposes of the ordinance setting out at what place
185 the improvement is proposed to be made, and the method under
186 which payment for the same is to be made, the lots and land
187 with the names of the owners of record thereof and the ap-
188 proximate amounts to be assessed against each lot, and the
189 owner thereof, and stating the time at which objections may be
190 filed.

191 (h) When the board of commissioners shall deem it ex-
192 pedient and proper to cause any avenue, street, road or alley,
193 or any portion thereof, in such city, to be graded, or graded
194 and paved, curbed or macadamized, or otherwise permanently
195 improved, or land to be acquired or taken for street purposes,
196 as provided in (a) of this section, or shall deem it expedient
197 and proper to cause the construction of any public sewer in
198 or under such avenue, street, road or alley or land or ease-
199 ment therein to be acquired or taken therefor, or elsewhere, or
200 cause any other permanent improvements to be undertaken,
201 contemplated by this or any other section, or sections, as pro-
202 vided in chapter eleven of the acts of the legislature of the
203 state of West Virginia of one thousand nine hundred and
204 twenty-one (municipal charters), as amended by this act, they
205 shall, by ordinance or resolution, order the work done, stating
206 the method of payment thereof, and, if it be let to contract,
207 notice shall be in the following manner, to-wit:

208 (i) The notice for the bids or proposals for doing such
209 work and making such improvements provided for in chapter
210 eleven of the acts of the legislature of the state of West Vir-
211 ginia, of one thousand nine hundred and twenty-one (munic-
212 ipal charters), as amended by this act, shall be published for
213 at least fifteen days in two newspapers of opposite politics, or
214 in one newspaper, if two such newspapers be not published in
215 the city. If the publication of the notice cannot be procured
216 in any newspaper in said city at reasonable rates, then said no-
217 tice may be given in the manner directed by the board. Said
218 notice shall state when, where and how the bids or proposals
219 shall be made; and whether so stated in the notice or not, the
220 city may reject any and all bids for such proposed work. Be-
221 fore advertising for bids on the work, the city shall approve
222 and adopt plans and specifications therefor, and the advertise-
223 ment for bids, and the contract awarded thereon, shall refer
224 to such plans and specifications. The fact that such contract
225 shall be let for said work shall be *prima facie* proof that the
226 notice mentioned above was given as required herein.

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

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

Sec. 67. The board of commissioners may contract for such
2 paving (including grading and curbing), or other said im-
3 provements, to be done as aforesaid, and may acquire or take
4 land for street and park purposes, as aforesaid, and may, if the
5 board so elect, stipulate that the costs thereof, in whole or in
6 part, shall be paid in installments by the abutting property
7 owners, as provided in (a) and (c) of section sixty-five, or
8 specially benefited property owners, as provided in (g) of
9 said section, in five equal or nearly equal installments, (making
10 four in terms of dollars only and when practicable in multiples

11 of ten, the cents and odd amounts to be covered by the first
12 installment), except as hereinafter provided in this section,
13 to be evidenced by a certificate issued therefor against each
14 separate lot or tract of land, setting out the total amount of
15 such assessment against the same, payable in installments in
16 thirty days, and one, two, three and four years respectively,
17 after the date of its issue, except as hereinafter provided, which
18 date in case of permanent improvements of streets shall be the
19 day on which the city received said work from the contractor,
20 and shall bear interest not to exceed six per centum per annum,
21 payable annually, which certificates are to be signed in person
22 by the mayor and clerk, or other person or persons designated
23 of record by the board. Said certificates shall bear coupons
24 designated "Principal installment coupons", representing the
25 respective amounts of the installments to be paid under the
26 same, and which coupons shall be due and payable on the dates
27 provided for the payment of the installments in this section, and
28 said certificate shall also bear interest coupons representing the
29 interest to be paid on said assessment, and which said interest
30 coupons shall be due and payable at the same time the principle
31 installment coupons are due and payable. Both the principal
32 installment and interest coupons shall be signed by the mayor
33 and clerk, or other person or persons designated, of record by
34 the board, either in person or by stamp, bearing a *fac-simile*
35 of the written name of the person signing, or lithographed in
36 *fac-simile* on said principal installment and interest coupons.
37 The certificates herein provided for may be sold either to the
38 contractor doing the paving or other improvements, or to any
39 other person, and which shall cover the entire cost of such work
40 provided for in the ordinance, including the cost of acquiring or
41 taking land for street or park purposes, the cost of surveys,
42 notices and other things pertaining thereto; *provided*, when the
43 entire amount to be assessed against any lot or piece of ground
44 under the provisions of this section does not exceed fifty dollars,
45 then such amount shall be covered by only one set of said
46 coupons, payable thirty days after date of its issue; if over fifty
47 and not more than one hundred dollars, then such amount shall
48 be covered by only two principal installment and interest cou-
49 pons, each, payable in thirty days and one year, respectively,
50 after date; if over one hundred and not more than one hun-

51 dred and fifty dollars, then such amount shall be covered by only
52 three principal installment and interest coupons, each, payable
53 in thirty days, one year and two years, respectively, after
54 date; if over one hundred fifty and not more than two
55 hundred dollars, then such amount shall be covered by
55-a only four principal installment and interest coupons,
56 each, payable in thirty days, one year, two years and
57 three years, respectively, after date; *provided, further*, the
58 city in negotiating and selling such certificates, shall not
59 be held as guarantor or in any way liable for payment thereof,
60 except upon the direct action of the board of commissioners as
61 expressed by resolution of record. And the certificate and
62 coupons covering the amount of the assessment and interest
63 shall be paid by the owner of the land, lot or fractional part
64 thereof, so assessed for the cost of said improvement on such
65 avenue, street, road or alley so paved or improved, or land ac-
66 quired or taken, as aforesaid. The amount specified in said
67 assessment certificates shall be a lien in the hands of the holder
68 thereof upon the lands, lots or parts thereof so assessed, and
69 shall also be a debt against the owner of such real estate, and
70 said amount shall draw interest from the date of said certifi-
71 cates, payable annually; and the payment of the debt may be
72 enforced as provided by law for the collection of other
73 debts or such lien may be enforced in the name of the holder
74 of such certificate in manner provided by law for the enforce-
75-76 ment of other liens against real estate.

77 After a contract has been made by a board to pave or other-
78 wise permanently improve any public road, avenue, street or
79 alley in said city under this act, and the paving or
80 other permanent improvement, or stipulated part thereof, has
81 been completed, or the cost of acquiring or taking land as afore-
82 said, has been ascertained, the board shall assess the amount
83 each lot shall bear and shall make a written report, stating the
84 number of lots, and the blocks or tracts of land, when not laid
85 off into lots, the names of the owners of such lots of land when
86 known, and the amount assessed thereon; and when the said
86-a board approves said report, or modifies it and then approves
87 it, a copy of said report, so adopted by the board, when certified
88 to by the city clerk of said city, shall be recorded in the clerk's
89 office of the county court of Cabell county, in a trust deed book
90 and shall be a continuing tax lien upon the lot or ground against

91 which the assessment is made until the certificates as aforesaid
 92 are paid, except as otherwise provided in this act, and the clerk
 93 shall index the same in the name of each lot or land owner
 94 mentioned therein. *Provided*, any property owner shall have
 95 the right to pay the whole amount of any such assessment
 96 against his property as soon as the same shall have been ascer-
 97 tained, but before the day, on which the city enters such assess-
 98 ments of record after the two weeks' notice provided in section
 99 seventy-four of chapter eleven of the acts of the legislature of
 100 the state of West Virginia of one thousand nine hundred
 101 twenty-one (municipal charters); and such payment shall be
 102 made to the city clerk, who shall give proper receipt therefor,
 103 and such assessment, so paid, shall not be included in the re-
 104 port to be recorded in the office of the county clerk as set out
 105 in this section; and the amount so paid to the clerk shall forth-
 106 with be paid to the contractor or other person entitled thereto,
 107 which shall operate as full discharge of the amount of such
 108 indebtedness of such property owner. The certificates and
 109 principal installment and interest coupons herein provided
 110 for may be made in the following form or to the same effect: .

111 No..... THE STATE OF WEST VIRGINIA \$.....

112 (State Coat of Arms)

113 CITY OF HUNTINGTON

114 PAVING ASSESSMENT CERTIFICATE

115 This certifies that,
 116 as the owner of a lot, piece or parcel of real estate, situate in
 117 the city of Huntington, known and designated at Lot
 118 No. in Block No.,
 119 has been duly assessed the sum of
 120 dollars, with interest from this date at the
 121 rate of six per centum per annum, payable annually, as
 122 hereinafter set out, which assessment has been made to pay the
 123 cost of the public improvement hereinafter recited.

124 This certificate is one of a series issued pursuant to the
 125 provisions of the charter of the city of Huntington, West
 126 Virginia, and the laws of the state of West Virginia, to pay
 127 the cost of grading, curbing and paving
 128 from to
 129 in the city of Huntington, West Virginia.

130 The charter of the city of Huntington, West Virginia, re-
131 quires assessments for such improvements to be made payable
131a in installments as follows:

132 (a) If not more than fifty dollars in one installment, due
133 in thirty days;

134 (b) If more than fifty dollars and not more than one hun-
135 dred dollars, in two installments, due in thirty days and one
136 year;

137 (c) If more than one hundred dollars and not more than
138 one hundred and fifty dollars, in three installments, due in
139 thirty days, one and two years;

140 (d) If more than one hundred fifty dollars and not more
141 than two hundred dollars, in four installments, due in thirty
142 days, one, two and three years;

143 (e) If more than two hundred dollars, in five installments,
144 due in thirty days, one, two, three and four years.

145 Said assessments to draw interest at the rate of six per
146 centum per annum, payable annually.

147 Installments of this certificate, therefore, are evidenced by
148 principal installment coupons here-
149 unto attached, which show the amounts of such installments,
150 the due date thereof, and are signed by the mayor and the
151 clerk of the city of Huntington, West Virginia.

152 The interest on this certificate and the installments thereof
153 are evidenced by interest coupons hereunto attached, which
154 show the amount of such interest, the due date thereof, and
155 are signed by the mayor and clerk of the city of Huntington,
156 West Virginia.

157 Upon the due date of any principal installment coupon, ex-
158 cepting the first, the annual interest on so much of said assess-
159 ment as remains unpaid, shall be due and payable in accord-
160 ance with, and as evidenced by "interest coupons" hereto
161 attached. The interest on the first principal installment
162 coupon shall be paid when the said principal installment
163 coupon is paid.

164 The said several principal installment and interest coupons
165 respectively, are payable at the office of the treasurer of the
166 city of Huntington

167 The amount of the assessment represented by this certificate
168 and principal installment coupons attached has been duly

169 levied, equalized and confirmed, and is a lien upon the real es-
170 tate herein mentioned, and is also a debt against the owner of
171 said real estate and the holder or bearer of this certificate may
172 enforce the debt evidenced thereby, as provided by law.

173 It is hereby certified and recited that all the acts, condi-
174 tions and things required to be done precedent to and in the
175 letting of the contract for said improvement, the equalization
176 and making of said assessment, and the issuing of this certifi-
177 cate, have been done and performed in regular and due man-
178 ner and form, as required by the charter of the city of Hunting-
178-a ton, West Virginia, and the constitution and laws of the
179 state of West Virginia.

180 In testimony whereof, the city of Huntington, a municipal
181 corporation created and existing under the laws of the state of
182 West Virginia, has caused this certificate to be signed by its
183 mayor and clerk, and the principal installment and interest
184 coupons, respectively, hereunto attached, to be signed by its
185 mayor and clerk this day of,
186 19.....

187,
188 Clerk. Mayor.

189 No..... PRINCIPAL INSTALLMENT \$.....
190 COUPON

191 On the day of, 19....., there
192 will be due and payable to the bearer hereof, from.....
193 the sum of dollars,
194 being the installment on certificate No.
195 of the city of Huntington, West Virginia, for the curbing,
196 grading and paving of from
197 to
198,

199 Clerk. Mayor.
200 No..... INTEREST COUPON \$.....

201 On the day of, 19....., there
202 will be due and payable to the bearer hereof, from
203 the sum of dollars,
204 representing interest at six per centum from
205 to of certificate No. on in-
206 stallment No. of the city of Huntington, West Vir-
207 ginia, for curbing, grading and paving of

208 from to
 209,
 210 Clerk. Mayor.

Sec. 68. The board of commissioners of said city are au-
 2 thorized and empowered to order and cause to be constructed,
 3 in said city, or part within and part outside of the limits of
 4 the said city, a public sewer or sewers, either main or lateral,
 5 or both, by contract or direct by the city, for the benefit of
 6 said city or any part thereof, and to purchase land or ease-
 7 ment therein or to condemn land or easement therein in the
 8 manner provided in this act, for such sewer; and when the
 9 board shall order and complete the construction of any such
 10 sewer or any part thereof in said city, the owners of the prop-
 11 erty abutting thereon or abutting upon an avenue, street, road
 12 or alley in which such sewer shall be constructed, or abutting
 13 on any land or easement therein specially procured for the
 14 purpose of the construction of a sewer therein, may be charged
 15 with all or any part of the cost thereof, including the cost of
 16 such sewer at and across intersections at avenues, streets, roads
 17 and alleys adjacent thereto. If said work is let to contract,
 18 the provisions of (i), section sixty-five, shall apply.

19 When said sewer is completed in any one block, or between
 20 two designated points, the board of commissioners shall cause
 21 a report to be made in writing setting out the total cost of such
 22 sewer and a description of the lots or lands as to location,
 23 frontage and ownership liable therefor, including the cost of
 24 acquiring or taking land or easement therein for such purpose
 25 and cost of surveys, notices, etc., therefor, together with the
 26 amount chargeable against each lot or piece of land and the
 27 owner thereof. If any lot fronts on two streets, or on a street
 28 and road, or on a street (or road) and alley in which a sewer
 29 is constructed, it may be assessed on both said streets, or street
 30 and road, or street (or road) and alley. Said board shall enter
 31 an order upon its records setting forth the location and owner
 32 of each lot or piece of land, and the amounts of said sewer
 33 assessments there against, calculated in the same way as pro-
 34 vided for street paving in (c) of section sixty-five herein. The
 35 city clerk shall file a certified copy of said order with the
 36 clerk of the county court of Cabell county, who shall record the
 37 same in the proper trust deed book, and index the same in the
 38 name of each owner, and any lot or land thus charged with

39 said assessment. The entry of such order shall constitute and
40 be an assessment for such proportionate amounts so fixed there-
41 in against respective lots and land and the owners thereof;
42 and said board shall thereupon certify the same to the treasurer
43 for collection; and for the purpose of facilitating the collec-
44 tion of such assessments against the properties herein, the
45 board of commissioners may issue assessment certificates, with
46 principal installment and interest coupons attached thereto, in
47 form and manner provided for street improvement certificates,
48 and coupons in section sixty-seven, to be delivered to and
49 charged against the city treasurer who shall collect the same,
50 and as such coupons and certificates are paid he shall deliver
51 the cancelled coupons and certificates to the party paying
52 the same;

53 *Provided*, the board of commissioners, if they so elect, may,
54 after passage and publication of ordinance or resolution and
55 final action thereon by the citizens board, as provided in (g)
56 of section sixty-five, order and cause the construction of any
57 such sewer, and may acquire or take land or easement therein,
58 either in or outside said city, or both, for said sewer pur-
59 poses, and assess all or any part of the cost thereof upon and
60 against the abutting, adjacent, contiguous and other lots of
61 land specially benefited by the construction of such sewer, as
62 provided in (g) of section sixty-five, and said assessments
63 shall be a lien upon such lots or land, and a debt against the
64 owners thereof for the amount so charged against them re-
65 spectively, which debt may be collected as provided by law for
66 the collection of other debts of like kind, and which lien may
67 be enforced in the same manner as provided for the enforce-
68 ment of paving liens in this act; and the city shall have ex-
69 clusive ownership and control of that part of any such sewer
70 constructed outside of said city, unless otherwise provided by
71 some ordinance of the city.

72 The amounts so assessed against said abutting lots or land,
73 or lots or lands specially benefited, and which shall be a lien
74 there against, shall be collected in the manner provided in this
75 act for the collection of paving liens. Said assessments shall
76 be divided into five installments, each for one-fifth of the
77 amount thereof, as near as practicable (making four in terms
78 of dollars only, and when practicable, in multiples of ten, the
79 cents and odd amounts to be covered by the first installment),

80 the first due and payable in thirty days, the second in one year,
81 and a like amount each succeeding year thereafter from the
82 time of receiving said sewer (except as hereinafter provided
83 in this section), all bearing interest at six per centum per
84-88 annum from such date, interest payable annually; and the
89 board of commissioners may issue sewer certificates, and prin-
90 cipal installment and interest coupons thereon as of such date,
91 as provided in section sixty-seven of this act for street im-
92 provement assessments, as further evidence of said indebted-
93 ness and lien therefor, and said certificates may be sold or
94 negotiated, at not less than par and without any kind of dis-
95 count to the contractors doing such work, or other person, if
96 the board deem it expedient; *provided*, the city, in negotiating
97 and selling such certificates, shall not be held as guarantor
98 or in any way liable for payment thereof except upon the
99 direct action of the board of commissioners as expressed by
100 resolution of record. But the owner of the land or lot so
101 assessed may, at any time, anticipate and pay such assess-
102 ment or certificate with accrued interest thereon until the day
103 on which the next undue assessment shall become due. And
104 if such assessment shall not exceed fifty dollars, then such
105 amount shall be covered by only one principal installment and
106 interest coupon, each payable in thirty days after date. If
107 over fifty dollars and not more than one hundred dollars, then
108 such amount shall be covered by only two principal install-
109 ment and interest coupons, each, payable in thirty days, and
110 one year, respectively, after date. If over one hundred dol-
111 lars and not more than one hundred and fifty dollars, then
112 such amount shall be covered by only three principal install-
113 ment and interest coupons, each, payable in thirty days, one
114 year and two years, respectively, after date. If over one hun-
115 dred and fifty dollars and not more than two hundred dollars,
116 then such amount shall be covered by only four principal in-
117 stallment and interest coupons, each, payable in thirty days,
118 one, two and three years, respectively, after date. And if more
119 than two hundred dollars, then in five installments of equal
120 amounts, as hereinbefore set out; and the term "equal
121 amounts" herein shall mean as nearly equal as practicable,
122 that is, four installments being expressed in terms of dollars
123 only, and, when practical, in multiples of ten, the cents and
124 odd amounts being covered by the first installment.

125 All assessments made under this section shall constitute and
126 be a lien upon said lots or lands, respectively, which shall have
127 priority over all other liens except for state, county and munic-
128 ipal taxes.

129 The certificates and principal installment and interest cou-
130 pons provided for in this section may be made and issued in
131 form or to the same effect as provided for certificates and prin-
132 cipal and interest coupons for street improvements in section
133 sixty-seven.

134 If two newspapers of opposite politics are not published in
135 the city at the time of the passage of any of the ordinances
136 provided in this act to be published, then the same may be
137 published in one newspaper of general circulation in the city,
138 as provided by this act, and if the publication of the ordinance
139 cannot be procured in any newspaper in said city at reason-
140 able rates, then the same may be posted for the period provided
141 in this act for publication, at the south front door of the city
142 hall, and such posting shall be equivalent to publication as
143 herein provided.

144 All certificates, principal installment and interest coupons
145 provided for in this act or chapter eleven (municipal char-
146 ters), of the acts of the legislature of the state of West Vir-
147 ginia, of one thousand nine hundred and twenty-one, shall be
148 made payable at the office of the treasurer of the city of Hunt-
149 ington.

150 *Provided*, that wherein said chapter or this act, in relation
151 to tax liens and assessment liens, and reports or orders of the
152 municipal authorities are required to be filed by the city clerk
153 in the office of a county court clerk, if the real estate sought
154 to be encumbered by such lien is situated wholly within Cabell
155 county, such report or order shall be filed in the office of the
156 county clerk of Cabell county; but if wholly situated in Wayne
157 county, then such report or order shall be filed in the office
158 of the county clerk of Wayne county; and if the real estate, the
158-a subject matter of the report or order is situated in both coun-
159 ties then such report or order shall be filed in the office of the
160 county court of both Wayne and Cabell counties.

161 All acts and parts of acts inconsistent with this act are here-
162 by repealed.

CHAPTER 79

(House Bill No. 82—Mr. Bruns)

AN ACT to incorporate the city of Kenova, in the county of Wayne, state of West Virginia, to fix its corporate limits, provide for the extension thereof and to prescribe and define the powers and duties of said city and its officials, and to annul the present charter of the city of Kenova.

[Passed April 13, 1923. In effect from passage. Became a law without the approval of the Governor]

Sec.	Sec.
1. The city of Kenova incorporated.	27. Mayor, rights and powers.
2. Boundary defined.	28. Police Judge, powers.
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19. Powers of council.	45. Assessments, how made.
20. Power to enforce orders, by-laws and ordinances.	46. Powers of City.
21. Taxes.	47. Ordinances, how enforced.
22. Licenses.	48. Police Court, powers.
23. Chief of police, duties.	49. Sinking fund.
24. Treasurer, duties.	50. Claims against city, how collected.
25. City attorney, duties and powers.	51. Existing ordinances.
26. City clerk, duties.	52. Charter annulled.

Be it enacted by the Legislature of West Virginia :

Section 1. That the inhabitants of that portion of the county of Wayne and state of West Virginia, within the boundaries described in section two hereof, be and they are hereby made and created a municipal corporation by the name of "The City of Kenova," by which name they shall have perpetual succession and a common seal ; and by which name they may sue and be sued, implead and be impleaded ; contract and be contracted with ; purchase or otherwise acquire and hold real estate and personal property in the needful discharge of the function of government conferred by law, and generally shall have all the rights, franchises, capacities and powers conferred by the laws of this state upon municipal corporations not inconsistent with the provisions of this act.

Sec. 2. The corporate limits and boundaries of said city shall, until otherwise modified or extended as hereinafter provided, be as follows:

Beginning at a point in the Ceredo and Virginia point county road, a corner in the western boundary line of the corporation of the town of Ceredo, county of Wayne, and state of West Virginia, thence south two degrees twenty-six minutes, west along the aforesaid western corporation line of the town of Ceredo three thousand and fifty-six feet to a stake at a corner of the lands of John H. Dingee and C. B. Hoard estate; thence north eighty-eight degrees fifty-one minutes, west, one hundred and sixty-five feet to a stake near the main track of the Norfolk & Western railroad; thence south, forty-four degrees, fifty-six minutes, west, crossing the said Norfolk and Western railroad one hundred and eighty-five feet to a stake in the line between lands of said John H. Dingee and Hoard estate, at a corner in the boundary line of the right of way of the said Norfolk & Western railroad, thence north seventy-three degrees, fifty minutes, west, along the southern boundary line of the right of way of the Norfolk and Western railroad aforesaid two thousand four hundred and seventy-five feet to a stake, thence along the southern boundary line last above mentioned with a line curving to the right and having a radius of one thousand three hundred and seventy-five and four-tenths feet nine hundred and forty-two feet to a stake; thence, leaving the said Norfolk & Western railway right-of-way boundary line and proceeding along, or near to the foot of the hills which slope toward the Ohio river, north fifty-five degrees, twelve minutes west, nine hundred and forty-four feet to a stake, north fifty-seven degrees, west one thousand two hundred and eighty feet to a stake north fifty-eight degrees, thirty minutes west one thousand four hundred feet to a stake and north sixty-three degrees, forty-seven minutes west five hundred and ninety feet to a stake; thence south sixty-three degrees, ten minutes, west on a line parallel with and seventy-five feet distance in a south twenty-six degrees and fifty minutes, east direction from the tangent center line of the Chesapeake and Ohio railway right-of-way approaching the Big Sandy river, one thousand six hundred and forty feet to a point in the said Big Sandy river, in the boundary line between the states of West Virginia and Kentucky; thence down the Big Sandy river and with the state boundary line as last above mentioned, north one degree, west seven hundred and twenty feet

43 to a point north ten degrees, fifty minutes west one thousand two
44 hundred and thirty feet to a point, north seven degrees, fifty-
45 two minutes west one thousand eight hundred and fifty feet to
46 a point north two degrees and two minutes, east one thousand
47 one hundred and ten feet to a point, north nineteen degrees,
48 forty-five minutes, west eight hundred and twenty feet to a
49 point, north one degree, five-one-hundredths minutes, west nine
50 hundred feet to a point, north twenty-eight degrees, twelve min-
51 utes west three hundred and fifty feet to a point, and north sixty
52 two degrees twelve minutes east one thousand three hundred feet
53 to a point in the Ohio river at the intersection of the aforesaid
54 boundary line between the states of West Virginia and Kentucky
55 and the boundary line between the states of West Virginia and
56 Ohio; thence up the Ohio river and with the boundary line be-
57 tween the states of West Virginia and Ohio as last above mention-
58 ed, south twenty-eight degrees, thirty-three minutes, east seven
59 hundred feet to a point, south forty-one degrees, thirteen minutes
60 east one thousand feet to a point, south forty-seven degrees,
61 forty-five minutes east one thousand feet to a point south fifty-
62 one degrees, thirty-five minutes, east one thousand feet to a point,
63 south fifty-three degrees, forty-six minutes, east one thousand
64 feet to a point, south sixty-two degrees, fifty-eight minutes, east
65 one thousand seven hundred feet to a point, near the mouth of a
65a small branch and south sixty-eight degrees, seven minutes, east,
66 passing under the Norfolk and Western railroad bridge crossing
67 the Ohio river one thousand feet to a point, thence leaving the
68 aforesaid state boundary line last above mentioned and crossing
69 the Ohio river south twenty-four degrees, fifty-eight minutes,
70 west and with the northwest corporation line of the town of
71 Ceredo, county of Wayne, state of West Virginia one thousand
72 seven hundred and eighty feet to a point at a corner of said
73 corporation line and in the Ceredo and Virginia Point county
74 road first herein mentioned; thence along said Ceredo and Vir-
75 ginia Point county road and with the said Ceredo corporation
76 line south sixty-four degrees one minute, east seven hundred
77 and sixty and three-tenths feet to a point and south seventy de-
78 grees, twenty-seven minutes, east one thousand eight hundred
79 feet to the place of beginning as first herein mentioned and con-
80 taining one and one-half square miles more or less.

81 *Provided, however,* that the boundaries of said city of Kenova
82 may be changed, and the territory included therein enlarged by
83-85 annexing thereto adjacent or adjoining territory.

86 (a) Whenever the inhabitants of any territory adjacent to or
87 adjoining the said city of Kenova, and not in any other incor-
88 porated city or town, desire to become a part of said city, they
89 may present to the common council of said city of Kenova, sit-
90 ting in regular session, or in special session called for that pur-
91 pose, their petition in writing, signed by at least two-fifths of
92 all the legal voters residing within the territory so proposed to
93 be annexed to said city, which petition shall contain a descrip-
94 tion by metes and bounds of the territory so proposed to be an-
95 nexed to said city, and shall be accompanied by a map or plat
96 thereof, and praying that such territory, be annexed to, and
97 become a part of said city of Kenova.

98 Upon such petition being presented to said common council,
99 the said common council may, in its discretion, call a special
100 election of the voters residing within the territory so proposed
101 to be added to said city of Kenova, for the purpose of deter-
102 mining whether or not such adjacent territory shall be added to
103 and become a part of said city, which election shall be held at
104 some suitable and convenient place or places within the terri-
105 tory so proposed to be annexed, and a notice of the time, place
106 and purpose of such election shall be posted at three of the
107 most public places therein, at least ten days before said elec-
108 tion. Such election shall be conducted in the same manner as
109 general elections are conducted and the common council of
110 said city of Kenova shall appoint the necessary election officers
111 to conduct the same, and the ballots cast at such election shall
112 be returned by the officers holding said election, to the city clerk
113 of said city of Kenova, the common council of said city of Ken-
114 ova shall hold a session not less than three nor more than seven
115 days after date of such election for the purpose of canvassing
116 the returns of and declaring the result of such election and if
117 a majority of the votes cast at such election be in favor of the
118 annexation of such territory to said city of Kenova, the same
119 shall be, from and after the result of such election is declared,
120 annexed to, and a part of said city of Kenova.

Sec. 3. The territory in said city shall be divided into wards
2 as follows:

3 *First Ward:* All the territory within the said boundary lines
4 lying west of the center line of Nineteenth street, Kenova,
5 projected from the northern to the southern boundary line of
6 said corporation.

7 *Second Ward*: All the territory within the said boundary
8 lines, lying between the center line of Fourteenth street, Ken-
9 ova, projected as aforesaid and the center line of Nineteenth
10 street, Kenova, projected from the northern to the southern
11 boundary line of said corporation.

12 *Third Ward*: All the territory within the said boundary
13 lines between the center line of Fourteenth street, Kenova, pro-
14 jected as aforesaid and the east corporation line, *provided, how-*
15 *ever*, that the city council may at any time after giving notice
16 thereof by advertising in some newspaper of general circulation
17 in said city of Kenova for two successive weeks, increase said
18 number of wards not to exceed five in number, and shall
19 change the boundary lines of said wards to correspond in area
20 and population as near equal as can be done, including any new
21 or acquired territory which may hereafter become a part of said
22 city; *provided, further*, that any adjacent territory coming into
23 said city as provided and hereinafter mentioned shall become
24 and be a part of the ward adjoining thereto, prior to said an-
25 nexation to said city, and shall remain in said ward until and
26 after the said council shall have given the proper notice as pro-
27 vided above and the boundary lines of said wards changed or
28 the number of wards increased in number and the boundary
29 lines set out and described including the said annexed territory;
30 *provided, further*, that said council may create as many vot-
31 ing precincts in any one ward as they may deem fit and neces-
32 sary or proper for the voters residing therein, *provided*, no pre-
33 cinct shall contain less than two hundred legal voters residing
34 therein.

Sec. 4. The municipal authorities of said city shall be a
2 mayor, police judge, and one councilman from each
3 ward. The mayor and councilmen shall constitute the common
4 council of said city.

Sec. 5. All the corporate powers of said corporation shall be
2 exercised by the common council, or under their authority, ex-
3 cept where otherwise provided.

Sec. 6. The common council of the said city shall employ a
2 city treasurer, city clerk, chief of police and all other agents and
3 employes needful for the exercise of the powers herein con-
4 ferred.

Sec. 7. The mayor, councilmen and police judge shall be
2 elected by the qualified voters of said city.

3 The mayor and police judge shall be elected for the term of
4 four years and the councilmen for the term of two years and
5 shall hold such offices as mayor, police judge and councilmen
6 until their successors shall have been duly qualified.

Sec. 8. The mayor, police judge and councilmen of said city
2 shall be citizens thereof and actual residents therein, sixty days,
3 at least, before day of election, and shall not be eligible to ex-
4 ercise the duties of the office unless they have paid taxes on one
5 hundred dollars worth of real or personal property for the year
6 preceding their election; *provided*, that no two councilmen shall
6a be elected from the same ward, nor reside therein during their
7 term of office; *provided, further*, that the mayor and police
8 judge of said city may reside in the same ward and may reside
9 in the same ward together with one councilman.

Sec. 9. The first election under this act shall be held on the
2 second Tuesday in June, one thousand nine hundred and twenty-
3 three. The nominations for the respective offices shall be made
4 not less than twenty days, nor more than thirty days prior to
5 the day of election, and all officers shall qualify and take their
6 several offices to which they were elected on the first day of July
7 following.

8 All regular elections for subsequent years shall be held on the
9 same day of the month as above mentioned.

10 The present mayor of Kenova, members of the city council
11 and the recorder or their successors in office at the time this act
12 goes into effect, shall hold their respective offices until the first
13 day of July following the first regular election herein provided
14 to be held.

Sec. 10. Candidates to be voted for at all general municipal
2 elections, at which a mayor, police judge and councilmen are to
3 be elected under the provisions of this act, shall be nominated by
4 convention or primary, or in any other manner provided by the
5 laws of West Virginia for municipalities..

Sec. 11. All persons actual *bona fide* residents of said city for
2 thirty days and entitled to vote for county and district officers
3 shall be entitled to vote for mayor, police judge and councilmen.

Sec. 12. Where a vacancy shall occur from any cause in the
2 office of mayor, police judge or in the council the vacancy shall
3 be filled by appointment by the council.

Sec. 13. At all elections the vote shall be by ballot and when
2 two or more persons for the same office at any election shall re-
3 ceive an equal number of votes, the council shall decide which

4 of the said persons shall be returned elected and all contested
5 elections shall be heard and determined by the council for the
6 time being.

Sec. 14. The mayor, police judge, councilmen, city clerk,
2 treasurer, chief of police, city attorney and all other officers
3 of the said municipality shall each, before entering upon the
4 duties of their respective offices, and within ten days after being
5 furnished with a certificate of their election or appointment,
6 take and subscribe to an oath to support the constitution of the
7 United States, and the constitution of the state of West Virginia
8 and to faithfully discharge his or her duties as such officer to
9 the best of their ability, so long as they continue therein.

10 Said oath may be taken before any officer authorized to ad-
11 minister oaths. Certificates of said oaths shall be recorded in
12 the journal of the proceedings of the council.

Sec. 15. If any one elected mayor, police judge or council-
2 man shall not have been eligible, or shall fail or refuse to take
3 the oath or affirmation required under this act, within the ten
4 days aforesaid, such office shall be declared vacant, and the va-
5 cancy filled as hereinbefore prescribed, but in all cases from
6 among the citizens of the city eligible to such office or position
7 under this act.

Sec. 16. The council shall be presided over at its meetings by
2 the mayor, or in his absence by one of the councilmen selected
3 by a majority of the councilmen present, and a majority of the
4 council shall be necessary to constitute a quorum to transact
5 business.

Sec. 17. The council shall cause to be kept in a journal, an
2 accurate record of all its proceedings, acts and orders, which
3 shall be fully indexed and open to the inspection of the citizens
4 of the city.

Sec. 18. The proceedings of last meeting shall be read to the
2 council, corrected when necessary, and signed by the person
3 presiding for the time being, and the city clerk. Upon the
4 call of any member, the ayes and noes on any question shall be
5 called and recorded in the journal.

6 The mayor, though voting as a member of the council, in
7 cases of a tie, shall have the casting vote.

Sec. 19. The council, so constituted, shall have power within
2 said city to lay off, open, extend, curb and pave streets, alleys
3 walks and gutters for the public use; and to alter, improve and

4 light the same and have them kept in order and free from ob-
5 structions on, over and under them; to regulate the width of the
6 sidewalks and streets, and to order the sidewalks, footways,
7 and gutters to be curbed, paved and kept in good order free and
8 clean, by the owners or occupants of the adjacent property; to
9 lay off public grounds and provide, contract for and take care
10 of public buildings proper to the city; to prevent injury or
11 annoyance to the public or individuals, from anything danger-
12 ous, offensive or unwholesome; to abate or cause to be abated,
13 anything which, in the opinion of a majority of the whole coun-
14 cil shall be a nuisance; to regulate the keeping of gunpowder and
15 other combustibles; to provide for the burial of the dead, and
16 for this purpose may purchase and hold the necessary land for
17 a cemetery near or convenient to said city, and provide for its
18 improvement and security; to provide for the regular build-
19 ing of houses and other structures in or for said city; for the
20 making of division fences, and to provide for shade and or-
21 namental trees, and against danger or damage from fires or
22 contagious diseases; to provide a revenue for the city and ap-
23 propriate the same, and to provide the annual assessment of
24 taxable persons and property of the city; to adopt rules for
25 the transaction of business and the government and regulation
26 of its own body; to promote the general welfare of the city, and
27 protect the property, and preserve peace and good order there-
28 in; to appoint such officers as they may deem proper; to define
29 their powers, prescribe their duties, fix their term of service
30 and compensation, require and take from them bonds, with such
31 sureties and in such penalties as the council may determine,
32 conditioned for the true and faithful discharge of their duties,
33 and remove them at pleasure, (all bonds to be made payable to
34 the city in its corporate name;) to erect, or authorize, or pro-
35 hibit the erection, of gas works, or water works, in or near the
36 city; to prevent injuries to, or pollution of the same: for all of
37 which purposes named in this clause. except that of taxation,
38 the council shall have jurisdiction for one mile beyond the city;
39 but not within the corporate limits of any other incorporated
40 city or town; to regulate and provide for weighing and measur-
41 ing of hay, coal and other articles sold or for sale in said city
42 and to regulate the transportation thereon through the streets,
43 and generally do such things as the council shall deem neces-
44 sary for the interests, prosperity, peace and good order of the
45 citizens of said city.

46 For the purpose of carrying out the foregoing mentioned
47 powers in this section of the city of Kenova is hereby given the
48 power of eminent domain, to be exercised in accordance with
49 the law and constitution of this state.

Sec. 20. To carry into effect these enumerated powers, and
2 all others conferred upon said city or its council, expressly or
3 by implication, in this or any other acts of the legislature, the
4 council shall have power to adopt and enforce all needful or-
5 ders, by-laws and ordinances not contrary to the constitution
6 and laws of this state, and to prescribe, impose and enforce
7 reasonable fines and penalties, including imprisonment for a
8 term not exceeding thirty days, under the judgment and order
9 of the police judge of the said city, or the person lawfully ex-
10 ercising his functions. The council, with the consent of the
11 county court of Wayne county, entered of record, may have the
12 right to use the jail of said county for any purpose necessary in
13 the administration of its affairs.

Sec. 21. The annual levy for taxes ordered by the common
2 council shall be made upon all real and personal property, in-
3 eluding dogs and other animals which are not exempt from
4 taxation, in the said city; *provided*, the tax rate does not exceed
5 the value of one dollar on every hundred dollars valuation of
6 real and personal property. No capitation tax shall be levied
7 nor collected by said council.

Sec. 22. The council may require a city license for conduct-
2 ing any business or doing any thing, when such business or act
3 is taxed by the state of West Virginia, and the council may in
4 any case require from the person so licensed a bond with sureties
5 in such penalties and with such conditions as it may determine;
6 *provided*, the council may grant or refuse any such license.

Sec. 23. The chief of police shall, within the corporate limits
2 of the city, exercise all the duties that a constable can legally
3 exercise in regard to executing and levying process and shall be
4 entitled to the same compensation therefor. He shall supervise
5 all other policemen and shall preserve the peace and good order
6 within the city limits and be subject to the order of the mayor,
7 police judge and council. Any policeman may be suspended by
8 the mayor of said city until the next regular meeting of the
9 council, at which time the mayor shall file written charges
10 against the chief of police or other policemen who have been
11 suspended, and if the mayor shall fail to file such charges the

12 chief of police or other policemen who have been suspended shall
13 be automatically restored to his office.

Sec. 24. The city treasurer, under the supervision of the
2 council shall have custody of all public moneys of the city; shall
3 keep and preserve such moneys as provided by ordinances or any
4 law applicable thereto; shall collect and receive and shall dis-
5 burse, upon warrants issued by the proper authority, all public
6 moneys.

7 He shall keep an accurate account of all moneys in his cus-
8 tody, collected, received and paid out by him, showing the source
9 from which the same are received and the purpose for which
10 disbursed. The council shall prescribe by ordinance or reso-
11 lution the manner in which a warrant for the payment of money
12 should be issued, executed and authenticated.

13 He shall be subject to the supervision and control of the
14 council in all things and perform the duties prescribed by the
15 council. The city treasurer shall likewise collect all fines and
16 license tax; but, it is further provided, that said fines and
17 license tax may be collected by the chief of police in the absence
18 of the city treasurer, which shall be paid over to the city
19 treasurer.

Sec. 25. The city attorney shall be an attorney-at-law ad-
2 mitted to practice in the state of West Virginia. He shall be the
3 legal adviser and counsel for the council of said city. He shall
4 prosecute and defend all suits for and against the city. He
5 shall prepare all contracts, bonds and other instruments in
6 writing required by the council. He shall furnish to the council
7 an opinion on any question involving the powers and duties of
8 said city whenever required. He shall apply, in the name of
9 the city, to a court of competent jurisdiction for an order of in-
10 junction to restrain the misapplication of funds of the city or
11 the abuse of its corporate powers, or the execution or perform-
12 ance of any contract made by the city in contravention of law,
13 or which is procured by fraud or corruption. He shall prepare
14 an ordinance covering any matter, whenever required by the
15 council, and he shall do and perform any and all other duties
16 which the council may by ordinance or resolution require. The
17 council may, in its discretion, employ and pay special counsel
18 in any matter.

Sec. 26. The city clerk shall attend all meetings of said
2 council and shall do and perform all things required by the

3 councilmen. He shall keep a complete record of all ordinances,
4 resolutions and acts of the city council. He shall enter in a
5 separate volume all ordinances of a general nature, and careful-
6 ly index the same. All ordinances providing for the issuing of
7 bonds, the creation of a debt, the construction of any public
8 improvement, of any local or temporary nature shall be en-
9 tered in a separate volume by the city clerk and carefully in-
10 dexed. He shall keep complete books of account showing all
11 financial transactions of the city and of each department, all
12 receipts and expenditures made by the city, the sources of all
13 income and the purpose of all expenditures.

14 He shall enter in the municipal assessment docket all special
15 assessments made for public improvements, showing the name of
16 the owner of the property, the particular property on which the
17 assessment is levied, the date of the entry, and the minute book
18 and page showing the entry of the ordinance or resolution
19 creating the assessment, the time maturing and time of the
20 assessment. When and as the installments upon principal and
21 interest on each assessment shall be paid, he shall enter such
22 payments showing the amount paid upon principal, the amount
23 of interest, under the heading and in the account of special
24 assessments. When the special assessment, principal and in-
25 terest, shall have been paid in full, he shall make an entry
26 in red ink on the face of the account showing that the special
27 assessment is fully satisfied and paid. He shall make out all
28 vouchers and pay-rolls of the city, and shall do and perform
29 all other duties which may be required of him by the council
30 by any ordinance or resolution, or by the head of any depart-
31 ment, and shall be subject to the supervision and control of
32 the council in all matters.

Sec. 27. The mayor shall be the chief executive officer of the
2 city and shall have and exercise all of the rights, powers and
3 duties of mayor conferred by the terms of this act, and it shall
4 be his duty to see that the laws and ordinances of the city
5 and resolutions and orders of the council are enforced, and that
6 peace and good order of the city are preserved, and that the
7 persons and property therein are protected.

8 The mayor shall be presiding officer of the council and a
9 member thereof, and as such shall have the right to vote on all
10 questions arising before the council. The mayor and the mem-
11 bers of the council shall perform such other duties not incon-

12 sistent with the provisions of this act as the council may from
13 time to time prescribe.

Sec. 28. The plice judge shall be ex officio a justice of the
2 peace, with authority to issue warrants or other process for
3 all offenses committed within the police jurisdiction of the
4 city of Kenova of which a justice of the peace has jurisdiction
5 under the state laws, and for all violations of any city ordinan-
6 ces, and as such shall have the authority to impose such fines
7 and collect such fees as justices of the peace are authorized
8 to do under the state law. In order to preserve the peace and
9 good order of the city, and protect the persons and property
10 therein, riotous and disorderly persons in the city may be ar-
11 rested and detained before issuing any warrant therefor. The
12 police judge may, with the same fees or other compensation al-
13 lowed justices of the peace, commit persons charged with felony
14 or misdemeanor to jail, or take bond for their appearance before
15 the grand jury of the court having jurisdiction thereof, and
16 shall have power to issue execution for all fines, penalties and
17 costs imposed by him, and he may require the immediate payment
18 thereof, and, in default of such payment, may commit the per-
19 son so in default to jail until the fine and penalty and costs
20 shall be paid or satisfied, and to be employed during imprison-
21 ment as provided by this act. If any person is sentenced to im-
22 prisonment, or any person or corporation is assessed with a fine
23 of ten dollars or more, such person or corporation shall be al-
24 lowed an appeal from said decision of the police judge to the
25 circuit court of Wayne county, upon the execution of an
26 appeal bond, with surety deemed sufficient by the police judge,
27 in a penalty double such fines and costs, conditioned that the
28 person proposing to appeal will perform and satisfy any judg-
29 ment which may be recorded against him by the appellate court
30 on such appeal, and in no case shall a fine of less than ten dol-
31 lars be given by the police judge if the defendant, his agent
32 or attorney demand that such fine be made as much as ten dol-
33 lars. If such appeal be taken the warrant of arrest, the tran-
34 script of the judgment, the appeal bonds and other papers of
35 the case shall be forthwith delivered by the police judge to the
36 clerk of the appellate court which shall proceed to try the case
37 as upon indictment or presentment and render such judgment,
38 including that of cost, as the law and evidence may demand.

Sec. 29. The officers shall receive the following compensation for their services, which shall not be diminished or increased during their term of office:

Annual salary of the mayor shall be three hundred dollars. Annual salary of the police judge shall be three hundred dollars. He may also receive costs, as provided by an order or resolution of the council in all cases of investigation and trial held before him.

Annual salary of the city clerk shall be four hundred dollars. Annual salary of each councilman shall be one hundred dollars.

The compensation of the city treasurer shall not exceed one per centum of the amount of moneys received by him for and on behalf of the said city.

The salary of the city attorney, the salary of the chief of police, policemen and all other agents and employees of the city shall be fixed by the council.

Sec. 30. The mayor, city clerk, treasurer, chief of police and policemen shall give bonds in penalties to be fixed by the council conditioned for the faithful discharge of their duties, or otherwise as required by law, which bonds shall be furnished only by some surety company authorized to do business in the state of West Virginia. The council may require bonds conditioned as aforesaid from any other agents or employee. The premiums on all such bonds shall be paid for out of the city treasury.

All bonds given as aforesaid shall be approved by the common council and shall be filed with the city clerk of the said city and preserved by him.

Sec. 31. There shall be a lien upon all real estate within the said city for the city taxes assessed thereon including such penalties and interest added thereto for non-payment thereof as are prescribed by law 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 West Virginia by appropriate suit, provided such suit be entered within five years from time said liens attached as herein provided, and such suit may be either in the name of the city of Kenova as plaintiff or said city may intervene by petition in any suit pending to sell or enforce liens against real estate which are subject to such liens for said taxes. Said liens for such taxes and attendant penalties, as well as

13 for improvements, may also be enforced by certifying of same
14 to the clerk of the county court of Wayne county for certifica-
15 tion to the state auditor, and the same may be certified down by
16 the state auditor and sold for taxes, interest, penalties and com-
17 missions thereon in the same manner, at the same time and by
18 the same officers as real-estate is sold for taxes, interest, dam-
19 ages, costs and commissions due the state, which officer shall
20 account therefor on settlement with the common council and
21 pay the same over to the treasurer of the city of Kenova.

Sec. 32. The council may cause any public street or alley or
2 part thereof to be graded, paved, curbed, sewered, or otherwise
3 improved in a permanent manner with brick, concrete, asphalt,
4 wooden blocks, macadam, sewer pipe or other suitable material,
5 or may cause any one or more of such improvements to be made,
6 under such regulations not inconsistent with the provisions of
7 this section and shall be fixed by council, upon the lowest and
8 best terms obtainable by advertising for bids or proposals
9 therefor; and the entire cost thereof (which costs shall include
10 the cost and expense of the preliminary and other survey, of
11 printing and publishing of notices, ordinances and resolutions
12 required to be published in relation thereto, and the cost of
13 construction), shall be assessed against the lots or fractional
14 parts of lots abutting on that part of the streets and alleys so
15 graded, paved, curbed, sewered or otherwise improved, in pro-
16 portion to the number of feet frontage thereon; provided, that
17 the cost of grading, paving, sewerage or otherwise improving in-
18 tersections of streets and alleys, (except such part thereof as
19 may be assessable to a street car or other railway company as
20 hereinafter set forth), and the proportion for lots or parts of
21 lots or property against which no assessment can legally be made
22 shall be paid by the city out of the general funds; and provided,
23 further, in case of a street or alley occupied by street car tracks
24 or other railway, the cost of paving the space between the rails
25 and for two feet additional outside each rail, shall be assessed
26 to and paid for by the street car or other railway company,
27 (unless otherwise provided in the franchise of such street car
28 or other railway company which was granted prior to the pass-
29 age of this act, in which case the cost of that part of the pave-
30 ment or other improvement which can lawfully be charged
31 against such street or other railway company under its fran-
32 chise shall be assessed against and paid by it).

33 (a) The amounts so assessed against such abutting lots or
34 fractional parts of lots to the said abutting property owners,
35 the city or street car or other railway company as aforesaid,
36 respectively, shall bear interest at the rate of six per centum
37 per annum for and after the date of the acceptance of the work
38 by the city, and shall become and be due and payable in the one
39 or the other of the following ways, according to the method
40 which the council may have adopted for the doing of and the
41 payment for the particular work or improvement to which said
42 assessments relate, namely; (1) In the event the method so
43 adopted is by an appropriation out of the funds in the city
44 treasury not otherwise appropriated in anticipation of the col-
45 lection of said special assessments, then the said assessments shall
46 become due and payable when declared final as hereinafter pro-
47 vided and to each assessment which shall remain unpaid thirty
48 days from and after the same has been so declared final, a
49 penalty of five per centum of said assessment shall be added and
50 collected by the city; or, (2) In the event the method so adopted
51 is by issue and the sale of bonds in anticipation of the collection
52 of said special assessments as hereinafter provided, then said
53 assessments shall be due and payable in ten payments as fol-
54 lows, that is to say: one-tenth of said amount, together with in-
55 terest at the rate of six per centum per annum from the ac-
56 ceptance of the work by the city on the whole assessment, shall
57 be paid to the city on or before the first day of May next after
58 the work is accepted, and a like one-tenth, together with interest
59 for one year upon the whole amount remaining unpaid, on or
60 before the first day of May in each succeeding year thereafter
61 until all have been paid, and each installment shall bear in-
62 terest at the rate aforesaid from the date of its maturity, and,
63 moreover, to each installment remaining unpaid on the days
64 herein specified for the payment thereof a penalty of ten per
65 centum of said installment shall be added and collected by the
66 city; and provided, further, that any abutting property owner,
67 the city or the street car or other railway company against
68 whose property said assessments have been made, shall have the
69 right at any time after such assessments shall have been certi-
70 fied to the treasurer for collection, as hereinafter provided, to
71 anticipate any or all of such assessments and shall be allowed to
72 pay the face of said assessments, with interest only to the time
73 of payment.

74 (b) The sum or sums of money so assessed, together with
75 the interest and penalties aforesaid, for grading, paving, curh-
76 ing, sewerage or other of said improvements, shall be a lien upon
77 the lots or fractional parts of lots, and in the case of a street car
78 or other railway company, upon its tracks and franchises for the
79 distance of said improvement, from the date of acceptance of
80 said work by the city, and said lien shall have priority over
81 all other liens except those for taxes due to the state, and
82 shall be on a parity with taxes and assessments due the city;
83 *provided, however,* such assessments shall, after six months from
84 the date of acceptance of said work, cease to constitute liens
85 against said property as against creditors of the owners thereof,
86 or purchasers thereof for value without actual notice of such
87 liens, unless within said period of six months a statement of
88 said liens shall be filed for record in the office of the clerk of
89 the county court of Wayne county. Said statement shall be
90 made up and certified before the expiration of said six months
91 period by the city clerk to the clerk of said county court as to all
92 assessments which shall remain unpaid four months after the
93 acceptance of the work, and said statement shall describe the
94 assessments generally as for street improvements, give the name
95 of the property owners assessed, the location of the real estate
96 affected, date of acceptance of the work by the city, and the
97 amount of each assessment; and it shall be a sufficient descrip-
98 tion of the location of said real estate to describe it as abut-
99 ting upon the particular street or alley so improved included
100 between the termini of the improvement, or by the description
101 whereby said real estate appears upon the land books of Wayne
102 county. The county clerk shall record said statement in the
103 trust deed books in his office, and index the same in the name
104 of the city and also in the name of each person against whose
105 property said assessments appear therein, and for such re-
106 cordation the county clerk shall be paid at the same rate for
107 each one hundred words as provided by law for recording
108 deeds of trust.

109 (c) The city clerk shall also, so soon as such assessments
110 have been declared final by the council, enter the same of record
111 in the "municipal assessment docket" and make out bills there-
112 for against the property owners assessed, and certify the same
113 for collection to the city treasurer, who shall thereupon be
114 charged with said accounts, and upon default being made in

115 the payment of any assessment or installment thereof afore-
116 said, the same shall be immediately reported to the council by
117 the city treasurer and the council shall forthwith refer the same
118 to such officer as it may deem expedient for collection; and pay-
119 ment of said delinquent assessments or installments, with the
120 interest and penalties aforesaid, may be enforced in all re-
121 spects as provided for the collection of city taxes, or the lien
122 aforesaid may be enforced by a suit in equity in the name of the
123 city in any court having jurisdiction thereof, and the said de-
124 linquent assessments or installment thereof, may be collected
125 from the person against whom the same were assessed by ac-
126 tion at law before any court or a justice of the peace having
127 jurisdiction thereof.

128 In addition to all other remedies for the collection of said
129 delinquent assessments or installments, the city may cause a
130 certified copy of the assessment to be filed in the office of
131 the clerk of the circuit court of Wayne county, West Virginia,
132 and after ten days' notice by personal service or after two
133 weeks' publication of a notice in all cases in which personal
134 service cannot be had, upon the owner of any lot on which said
135 assessment constitutes a lien, said court shall, on motion of
136 the city of Kenova, order the sale of the lots or property on
137 which the assessment or installment constitutes a lien to be
138 made by the city treasurer at the front door of the court house
139 of Wayne county on such terms as to payment as the court in
140 its order may prescribe. The city treasurer shall advertise the
141 time, terms and place of such sale by a notice published once a
142 week for two successive weeks in some newspaper published and
143 of general circulation in the city of Kenova, and by posting a
144 copy of such notice at the front door of the council chamber
145 for at least two weeks before the day fixed for such sale.

146 The city treasurer shall report any sale made hereunder to
147 said court for confirmation, and upon the conformation of the
148 sale, the court shall authorize the city treasurer to execute
149 and deliver to the purchaser a deed for the property so sold,
150 which shall divest all the estate and interest therein of the
151 former owner and all persons claiming under him and of all
152 lien holders against the property, and vest all such estate and
153 interest in the purchaser thereof. Out of the proceeds of such
154 sale the court shall allow the city treasurer all costs and ex-
155 penses incurred in making the sale and reasonable compensa-

156 tion for his services and a fee of five dollars for making the
157 deed to the purchaser, and shall order to be paid out of the pro-
158 ceeds, if sufficient, all unpaid assessments or installments of
159 assessments against said property theretofore made by the city
160 of Kenova, with all accrued interest thereon and costs and ex-
161 penses of the proceeding, including an attorney's fee of ten
162 dollars.

163 The residue of the purchase money shall be paid to the
164 former owner of the lot, his personal representative, heirs or
165 assigns. Before making any sale of real estate in any such
166 proceeding, the city treasurer shall execute a bond in like man-
167 ner required by the laws of the state of West Virginia of a
168 special commissioner.

169 (d) Immediately upon the completion and acceptance of
170 any of the work aforesaid constructed by virtue of this section,
171 the council shall direct the city clerk to prepare and publish a
172 notice which shall name and describe the location of the street
173 or alley upon which said work shall have been constructed,
174 give the names of the owners of each lot or fractional part of
175 lot abutting upon said street or alley, if known, and also the
176 name of any street car or other railway company having tracks
177 thereon, and if the name or names of any such owners be un-
178 known, and such lot or fractional part of lot shall be described
179 with reasonable certainty so that the same may be identified;
180 and said notice shall also state the number of feet, that each lot
181 or fractional part of lot abuts upon said street or alley, so
182 graded, paved, sewerred or otherwise improved and the street or
183 alley intersection and all abutting city property and property
184 not liable to assessments, and the number of square feet or
185 yards to be paid for by such street car or other railway com-
186 pany, and also the respective amounts assessed against each lot
187 or fractional part of lot and against the city and against any
188 street car or other railway company, and when said assessments
189 or installments thereof shall be payable. Said notice shall cite
190 all said property owners and also such street car or other rail-
191 way company, to appear before the council at a regular meet-
192 ing thereof within thirty days following the first publication
193 thereof and show cause, if any they can, why the assessments
194 aforesaid shall not be declared final. The council shall, upon
195 request of any one or more of the property owners so assessed
196 who shall appear and protest within the time aforesaid, appoint

197 a day for hearing the grievances of said protestants and may
198 correct or amend any assessment made against them, or any of
199 them, for good cause shown; which meeting shall be held with-
200 in ten days after the expiration of the thirty days mentioned in
201 the notice.

202 The council may adjourn the hearing from time to time. In
203 case any property owner or railway or street car company
204 assessed as aforesaid shall fail to protest within said period
205 of thirty days, the assessments as to them shall by ordinance
206 be declared final as laid, and protested assessments shall become
207 and be declared final when and to the extent found proper by
208 the city council, and the finding in all such cases shall be
209 entered of record upon the minutes of the meeting. The find-
210 ings of the council shall be conclusive.

Sec. 33. Whenever it is deemed expedient by the council to
2 provide for the grading, paving, curbing, sewerage or other im-
3 provement of any of the streets, or alleys, or parts thereof, to
4 be paid for by special assessments, as hereinbefore provided,
5 the council shall first, having on file in the city clerk's office,
6 plans, specifications, profiles and estimates of the proposed
7 improvements showing the proposed grade of the street or al-
8 ley after completion with reference to the abutting property
9 declare by resolution the expediency of the work and whether
10 payment therefor shall be made by an appropriation from funds
11 in the treasury not otherwise appropriated in anticipation of
12 special assessment payable when declared final, or by the is-
13 sue and sale of bonds theretofore authorized as hereinafter in
14 section thirty-five provided; and said plans, specifications, pro-
15 files and estimates shall be open to public inspection.

16 Said resolution shall declare the general nature of the work
17 and refer for details to said plans, specifications, estimates and
18 profiles; and said resolution shall remain on file with the city
19 clerk for public inspection one week before the final passage
20 or adoption thereof, and shall be published once in each of
21 the two newspapers mentioned in section forty hereof as soon
22 as filed with the city clerk. Until said resolution is finally
23 passed the council shall hear all persons interested in relation
24 thereto at any regular or special meeting, and after it decides
25 to proceed with the improvement, it shall pass said resolution,
26 or the council may correct or amend said resolution, plans,
27 specifications, profiles and estimates and approve and adopt

28 them as corrected or amended; and said plans, specifications,
29 profiles and estimates shall be forthwith filed with the city clerk
30 and be by him preserved as a part of the records of his office.

31 (a) The council may then adopt and pass ordinances for
32 said purposes which shall provide generally the character of the
33 work, make appropriations for the payment therefor, and pro-
34 vide for advertisement for proposals or bids for said work; and
35 shall also set forth the streets and alleys upon which the prop-
36 erty is to be assessed for said improvements, the general char-
37 acter of materials which may be bid upon therefor, the mode of
38 payment, and a reference to the resolution theretofore passed for
39 said improvements, (giving the date of passage), and a state-
40 ment of the intention of council to proceed with said work in ac-
41 cordance with said resolution and in accordance with the plans,
42 specifications, estimates and profiles providing therefor.

43 In any case where the council has determined to pay for any
44 of such improvements out of funds in the city treasury not
45 otherwise appropriated, in anticipation of the collection of
46 said special assessments, said ordinance shall further provide
47 for the payment of said special assessments by the property
48 owners respectively when and as the same become final, and said
49 ordinance shall then be passed and become and be effective as
50 provided in section thirty-four of this act; but when it has been
51 determined to issue and sell bonds for the payment thereof, the
52 said ordinance shall fix the time of payments in installments
53 as hereinabove in section thirty-two provided, and said ordi-
54 nance shall not be effective so as to permit any contract to be
55 made or work to be done thereunder until in addition to the
56 compliance with the provisions of said section thirty-four the
57 fact that the proceeds of the sale of said bonds have been
58 received by the city shall be certified by the clerk of said
59 city, and such certificate entered upon the minutes of the coun-
60 cil.

Sec. 34. Every ordinance or resolution appropriating money
2 or ordering any street improvement or sewer, or making or
3 authorizing the making of any contract, or granting any fran-
4 chise or right to occupy or use the streets, highways, bridges
5 or public places in the city for any purpose, shall be com-
6 plete in the form in which it is finally passed, and remain on
7 file with the city clerk for public inspection at least one week
8 before the final passage or adoption thereof. No franchise

9 or right to occupy or use the streets, highways, bridges or pub-
10 lie places in said city shall be granted, renewed or extended
11 except by ordinance. No franchise shall be granted for a period
12 exceeding thirty years, and no amendment or addition thereto
13 shall extend beyond the termination of the original franchise.

Sec. 35. When such work is provided to be paid out of the
2 funds in the treasury not otherwise appropriated in anticipation
3 of collection of special assessments, all said assessments and
4 interest and penalties collected therefor from the abutting
5 property owners, the city and the street car or other railway
6 company shall be applied and paid on account of the cost of
7 such improvement, (either to the contractor, if he be unpaid, or
8 to the city in repayment of said appropriation, or such part
9 thereof as may have been paid by it thereon, as the case may be),
10 until the whole cost of said improvement and interest has been
11 paid in full. Said assessments shall be applied to no other
12 purpose, but if, by reason of penalties collected, any balance
13 shall remain after such full payment, said balance shall be
14 turned over into the city treasury to the credit of the fund for
15 street improvements and used for no other purpose.

Sec. 36. Where such work is provided to be paid by the issue
2 and sale of bonds in anticipation of the collection of special
3 assessments, the issuance and sale of said bonds must have been
4 theretofore authorized in the manner and form and subject
5 to the restrictions following; whenever it is deemed expedient
6 by the council to provide for such grading, paving, curbing,
7 sewerage or other improvement, by the issue and sale of bonds of
8 the city, it shall by resolution entered of record upon the
9 minutes of its proceedings, so declare, and thereupon the city
10 shall be and is hereby authorized to issue its bonds for said
11 purposes in anticipation of special assessments to be assessed
12 and paid as hereinabove in section thirty-two provided, which
13 bonds shall be in such amounts as shall be sufficient to pay the
14 entire cost and expense of said improvements for which such
15 special assessments are levied, and the city is also authorized to
16 sell said bonds; *provided*, that the price for which said bonds are
17 sold shall not be below the par value thereof, and said bonds
18 shall be made payable in two, six, eight and ten years from the
19 date of the issue thereof, and shall bear interest at not to
20 exceed six per centum per annum, payable annually or semi-an-
21 nually, as the council may provide, and in the issuance and sale
22 of said bonds the city shall be governed by all the restrictions

23 and limitations of the constitution of this state, and, so far
24 as not in conflict with the provisions of this section, by the
25 restrictions and limitations of the laws of this state, with
26 respect to the issuance and sale of bonds; and all assessments,
27 (which shall be made payable in ten annual installments as
28 provided in section thirty-two hereof) shall be applied to the
29 liquidation of said bonds and the interest thereon, and to that
30 end paid to the city treasurer to the credit of the sinking fund of
31 the city and invested for the best advantage of the city in the
32 manner provided by law; and if by reason of penalties collected
33 with the delinquent installments there shall be any balance after
34 the payment of said bonds and all accrued interest and costs,
35 said balance shall be turned into the city treasury to the credit
36 of funds for street improvements and used for no other purpose;
37 *provided*, that the city shall not by the sale or issue of said
38 bonds cause the aggregate of its debts of every kind whatsoever
39 to exceed five per centum of the value of the taxable property
40 therein; and *provided, further*, that nothing herein contained
41 shall be construed as authorizing the city to become indebted in
42 any other manner or for any other purpose to an amount, includ-
43 ing the existing indebtedness in the aggregate, exceeding two and
44 one-half per centum of the value of the taxable property therein,
45 except for the purpose of grading, paving, curbing, and other-
46 wise improving the streets and alleys of the city, and construc-
47 ting sewers and sidewalks along, upon and under the same; and
48 extending and improving the water plant or system; nor shall
49 said city make such issue and sale of bonds without at the same
50 time providing for the levying of a direct annual tax suffi-
51 cient to pay annually the interest on such debt and the prin-
52 cipal thereof within and not exceeding ten years, if said bonds
53 are issued against assessments for local improvements to be
54 liquidated by such assessments, and not to extend thirty-four
55 years if for any other purpose.

56 (a) All of the assessments, interest and penalties collected
57 under the provisions of this section shall annually be applied
58 to the annual tax required to pay the interest on any debt
59 created for a local improvement and such principal, within and
60 not exceeding ten years; and in the event that the assessments,
61 interest and penalties so collected shall not amount to a sum
62 sufficient therefor, then the council shall collect so much of
63 said authorized levy as will pay annually the interest on such

64 debt and the principal thereof within and not exceeding ten
65 years.

66 (b) It is especially provided that no bonds shall be issued
67 under the provisions of this section, unless and until the ques-
68 tion of issuing said bonds shall have first been submitted to a
69 vote of the people of the city, and shall have received three-
70 fifths of all votes cast at said eleciton for the same.

71 The council may provide by ordinance for an election in
72 any year, at which the question shall be submitted to the people
73 as to whether the city shall be authorized to issue bonds for
74 the purpose and under the provisions of this section, to an
75 amount not to exceed in the year next following the date of
76 said election the amount recommended by said ordinance for said
77 ensuing year; but the ordinance providing for said election need
78 not specify in detail the location of the improvement contem-
79 plated to be paid for during the ensuing year out of said ag-
80 gregate issue authorized for said year, and notwithstanding the
81 provisions of sections two, three and six of chapter forty-seven-a
82 of the code one thousand nine hundred and sixteen, it shall be
83 a sufficient description of the purpose for which said election is
84 held if the ordinance calling the same shall recite that it auth-
85 orizes the council to issue bonds for the purpose of grading,
86 paving, curbing, sewerage, or otherwise improving the streets
87 and alleys of said city, or extending and improving the water
88 works plant, at such times as the council or the water board, as
89 the case may be, shall see fit during the ensuing year ending on
90 the.....day of.....19....., to an amount not ex-
91 ceeding in the aggregate during said year the sum of \$.....,
92 and when the council shall have once been authorized by a vote of
93 the people to issue bonds for said purpose and in a sum not to
94 exceed the amount set forth in the ordinance calling the said
95 election, no further election shall be necessary for the issuing
96 of such bonds during said ensuing year up to the amount stipu-
97 lated in said ordinance calling said election, but the council shall
98 from time to time during said ensuing year by ordinance author-
99 ize the issue of said bonds, in such sums, and for the improvement
100 of such streets and alleys as to it may seem best, subject to
101 the provisions of section thirty-two, thirty-three and thirty-
102 five of this act. Any bonds authorized for the extension and
103 improvement of the water works or plant shall be issued and
104 delivered to the treasurer, and by him sold as provided by law,

105 and the proceeds of such bonds shall be expended, only for the
106 purpose for which said indebtedness was authorized.

107 The aggregate amount of bonds authorized by said annual
108 election shall not be exceeded during said year, unless and ex-
109 cept the same be authorized by a special election held at a sub-
110 sequent time in said year and duly called as provided for the
111 calling of the annual bond election.

112 The provisions of chapter forty-seven-a of the code concern-
113 ing bond elections, shall, so far as they are not in conflict with
114 the provisions of this section, apply to the annual bond elec-
115 tions and special bond elections herein provided for.

Sec. 37. The city council is hereby authorized and empower-
2 ed to cause to be put down a suitable curb of brick, stone or other
3 material along and for the footways and sidewalks of the public
4 streets and alleys of said city, and to order and cause the
5 grading, laying or relaying or repair of sidewalks and gutters
6 of such material and width as the council may determine; and
7 to require the owners or occupiers of the lot or lots or parts
8 of lots facing upon said streets and alleys to keep such side-
9 walks clean and in good repair. The owners or occupiers of the
10 lots or fractional parts of any such sidewalks, curb or gutter,
11 unless specially requested to do so by resolution adopted by the
12 council, and then only of the kind prescribed by the council;
13 but the city may lay such sidewalk, curb or gutter and grade
14 therefor, or may let said work by contract, and in either case
15 the total cost of said work shall be charged upon and assessed
16 against the lots or fractional parts of lots abutting upon the
17 streets and alleys so improved, in proportion to the number of
18 feet frontage thereon of each lot or part of lot, and shall be
19 and remain a lien thereon from the date of the acceptance of the
20 work by the city, and said lien shall have priority over all
21 other liens except those for taxes due the state, and shall be
22 on a parity with the taxes and assessments due the city, and
23 shall bear interest from the date of acceptance of the work
24 by the city, or from the completion thereof when done by
25 the city, and shall become due and payable when declared
26 final by the council; and to each such assessment remaining
27 unpaid thirty days after maturity there shall be added and
28 collected by the city a penalty of ten per centum of the amount
29 of such assessment in addition to the interest. The amount so
30 assessed against any lot, or fractional part of lot, together

31 with the interest and penalty aforesaid, shall also be a debt
32 against the owner of such lot or part of lot.

33 Immediately upon completion of the work, if done by the
34 city, or upon acceptance of the work if done by contract, the
35 council shall cause the city clerk to publish a notice which
36 shall give the name of the owners of each lot or fractional part
37 of lots over which such sidewalks are graded, paved, curbed or
38 laid, if such names be known, and if unknown, shall describe
39 such lot or part of lot with reasonable certainty sufficient to
40 identify the same, and shall also state the number of feet over
41 each lot or part of lot so graded, curbed or laid with sidewalk,
42 together with the amount assessed against each owner; which
43 notice shall be published as provided for the publication of
44 notice of street assessments hereinabove and shall cite all said
45 owners to appear before the council at a regular meeting to
46 be held within thirty days following the first publication
47 thereof and show cause, if any they can, why such assessments
48 should not become final. Protests against said assessments shall
49 be heard and determined and said assessments shall become
50 final and be recorded by the city clerk, certified for collec-
51 tion, charged to the treasurer, collection thereof enforced
52 against the property assessed and against the owner thereof,
53 and a certificate of said assessments certified to the clerk of the
54 county court for recordation, and recorded in all respects
55 in the same manner and with the same legal effect as provided
56 in the case of assessments for street paving or other local im-
57 provements in this act provided. And all of the assessments,
58 interest and penalties thereon so collected from the abutting
59 lot owners on account of the grading and curbing and laying of
60 said sidewalks shall be applied to the cost of making the im-
61 provement for which assessments were laid, and for no other
62 purpose; but if by reason of the penalties collected on delin-
63 quent assessments there shall be any balance over and above
64 the cost of such improvement, such excess shall be paid into
65 the city treasury to the credit of the fund for street improve-
66 ments and shall be used for no other purpose.

Sec. 38. Whenever any assessments for sidewalks, street pav-
2 ing, grading, sewerage or other improvements herein above pro-
3 vided for shall have been paid in full, the city treasurer shall
4 execute on behalf of the city and deliver to the party paying
5 the same a proper release on the lien of such assessment, which
6 release shall be substantially in the form prescribed by section

7 two of chapter seventy-six of the one thousand nine hundred
8 and thirteen code of this state, (serial number three thousand
9 eight hundred and fifty-nine) for the release of the lien of judg-
10 ments and decrees.

Sec. 39. No assessment herein authorized against or upon
2 any property for any local improvement shall, in the first in-
3 stance exceed in amount twenty-five per centum of the value
4 of such property after the improvement is completed. And all
5 assessments for local improvements which may be made against
6 any property during the fifteen years next ensuing after the
7 first assessment shall have been made, including the first assess-
8 ment, shall not exceed at any time in the aggregate one-third of
9 the value of such property.

Sec. 40. The remedies herein provided for the enforcement
2 of any power, right or authority by this charter conferred up-
3 on said city of Kenova shall not be exclusive or in derogation
4 of any other right or remedy which it does or shall possess under
5 any law or under the constitution of the state to enforce in any
6 court of law or equity any such power, right or authority.

Sec. 41. If in any case any special assessment shall be illegal
2 or void, either in whole or in part, a new assessment may be
3 made in the same manner, as nearly as may be, as other special
4 assessments are authorized by this act to be made, to pay for the
5 improvement, the former assessment for which was or is illegal or
6 void as aforesaid.

Sec. 42. All ordinances, resolutions and notices of every kind,
2 the publication of which is required by any provision of this
3 act, shall be published for the period of time in each particular
4 instance specified, but in all cases in which the time the pub-
5 lication is to run is not specially provided, such publication
6 shall be once a week for two consecutive weeks. In all cases the
7 manner of publication shall be by causing the same to be in-
8 serted in two principal newspapers of general circulation in the
9 city of Kenova of opposite political opinions and affiliations; if
10 the owner of either of such newspapers will not publish such
11 notices in any instance at the rate herein provided to be paid, or
12 if only one such newspaper for any period be published in the
13 city of Kenova, then, by inserting such notice in the papers that
14 will publish the same at the rate hereinafter provided, or in any
15 newspaper published in the city of Kenova. If the newspaper
16 published in said city will not in any instance publish any notice
17 required, at the rate of compensation hereinafter provided, then

18 and in every such case it shall be sufficient publication thereof to
19 post a copy of such notice at the front door of the building in
20 which the city council holds its meetings, for a period of two
21 weeks.

22 Every such publication or posting shall be held and deemed
23 to be equivalent to personal service in every case.

24 The certificate of the printer or manager of the paper pub-
25 lishing any notice herein required, or the affidavit of the party
26 posting any notice that may be served by posting, shall be ac-
27 cepted as prima facie evidence of the publication of the notice.
28 Such certificate and affidavit shall be filed with the city clerk
29 and preserved as a part of the records of his office.

30 The rates charged for the publication of any notice herein
31 required to be given shall not exceed the rate prescribed by the
32 laws of the state of West Virginia for the publication of notices
33 republished in suits in chancery in the circuit courts of the
34 state.

Sec. 43. The mayor shall have the right to expend any money
2 for the relief of poor and indigent persons, which expenditure
3 shall be reported to the common council at its next meeting
4 following the date such money was expended, and, which, in no
5 instance, shall exceed twenty-five dollars. In the absence or
6 disability of the mayor, the council shall designate one of their
7 members to act as such mayor, which member shall have all
8 the rights and powers and exercise duties of said office.

Sec. 44. The council shall have the power to appoint a board
2 of health for said city, composed of three members, one of which
3 shall be a regular practicing physician and reside within the
4 city limits. The compensation of said board of health shall be
5 fixed by the council. The said board of health shall have the
6 powers within the city limits as are conferred on county boards
7 of health.

Sec. 45. The assessments provided for in this act shall be
2 made at the time and in the manner provided for in the general
3 laws of the state of West Virginia. New assessments may be
4 made in case the assessment for any one year is void.

Sec. 46. The city of Kenova shall have power within and
2 without its territorial limits to construct, condemn and purchase,
3 acquire, lease, improve, add to, maintain and conduct and
4 operate water works, light plants, power plants, heating plants,
5 incinerating plants, ground for public wharf and ferry boat
6 landings, local in use, and everything required therefor, for the

7 use of said city, and the inhabitants thereof; and in such sys-
8 tem, plants, works or ways, or in contracts in relation thereto, or
9 in connection therewith, that may exist, and which said city may
10 desire to purchase, may be purchased or acquired by said city,
11 which may enforce such purchases by proceedings at law or in
12 equity, by right of eminent domain, and said city shall have the
13 power to issue bonds upon the vote of the tax-paying electors at
14 any special or general election in any amount necessary to carry
15 out any of said powers or purposes, said amount being limited
16 only by the constitution and the laws of the state of West Vir-
17 ginia and by other provisions of this charter; *provided, however,*
18 that the power to condemn shall not be exercised for the purpose
19 of acquiring such utilities now existing and operating under
20 franchise granted by the said city, excepting under the terms
21 of said franchise.

Sec. 47. The ordinances of the city of Kenova shall be en-
2 forced by the imposition of fines, forfeitures and penalties
3 against any person or persons violating such ordinances, or any
4 of them, and the council shall prescribe in each particular
5 ordinance made for that purpose the minimum and maximum
6 fines for the infraction thereof, which maximum shall not ex-
7 ceed one hundred dollars, exclusive of costs, for any one specific
8 offense.

9 The same cost shall be taxed in each criminal case tried in
10 the police court as is provided by law to be taxed by justices
11 of the peace in the trial of misdemeanor cases coming under
12 the jurisdiction of justices of the peace, except that in every
13 contested criminal case the police-judge may also tax an at-
14 torney's fee not exceeding ten dollars, to be paid to the city
15 prosecutor for his services in said case, if a conviction be had
16 in said case.

Sec. 48. The police court may impose in all judgments of
2 conviction for the violation of any ordinance of the city, a fine
3 and that the person against whom said fine is assessed shall be
4 imprisoned until the fine and costs of prosecution shall be paid,
5 or the same are remitted by the police judge or council.

6 Any person committed for the non-payment of fine and costs
7 while in custody may be compelled to work on the streets, al-
8 leys, public grounds or work until such fine and costs are paid
9 allowing one dollar per day for the work of said prisoner to
10 apply on said fine and costs.

Sec. 49. The council may by ordinance provide that all 2 revenues of the city other than those belonging to the sinking 3 fund may be placed in one general fund, or in trust funds as 4 may be deemed expedient, and may provide, if there be more 5 than one of such funds, for the transferring of money from one 6 such fund to another fund, by unanimous vote of the council.

Sec. 50. Every claim against the city must be approved by 2 the council, and be filed with the city clerk in writing, with a 3 full account of all items thereof, and must be subscribed by 4 the claimant, or his agent or attorney, who, on oath, shall de- 5 clare that the same is correct, just, due and unpaid, and no 6 claim or demand shall be allowed or suit filed thereon unless 7 so prepared and filed, and unless suit shall be filed upon such 8 claim within twelve months after same shall have been filed 9 with the city clerk in writing, as above provided, such claim 10 shall be forever barred.

Sec. 51. All existing ordinances of the city of Kenova not 2 inconsistent with this charter or inapplicable under the altered 3 form of municipal government provided by this charter, shall be 4 and continue in full force and effect as ordinances of the city 5 of Kenova, until amended or repealed, or until they expire by 6 their own limitation; and no existing rights, action, (civil or 7 penal) suit or proceeding, or contract, or franchises, shall be 8 affected in the change of the form of government of the ter- 9 ritory set out in section two of this act; but all shall con- 10 tinue as though no such change had taken place; and all debts, 11 penalties and forfeitures which have accrued, or which may 12 hereinafter accrue by virtue of anything heretofore done or ex- 13 isting, shall inure to the benefit of the city, and may be sued for 14 or recovered by said city as though this charter had not been 15 adopted. Nothing herein, however, shall legalize or make legal 16 any invalid indebtedness of the city of Kenova heretofore con- 17 tracted or incurred, or impair any defense against the payment 18 of the same; nor shall the adoption of this charter in any wise 19 interfere with any proceedings heretofore instituted relating 20 to the levy and collection of taxes, special assessments or levies 21 of any nature, or with any proceeding to enforce the payment 22 of the same, and all contracts heretofore entered into by the city 23 of Kenova shall remain in full force and effect and be com- 25 pleted under ordinances existing at the time of the adoption of 26 this charter.

Sec. 52. The charter of the city of Kenova existing prior to 2 the passage of this act is hereby annulled.

CHAPTER 80

(House Bill No. 192—Mr. King)

AN ACT to amend and re-enact section four of chapter twenty-one of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one entitled, "An act to create the municipal corporation of the city of Richwood, in the county of Nicholas, to grant a charter thereto, and to annul the charter of the town of Richwood."

[Passed March 20, 1923. In effect ninety days from passage. Approved by the Governor April 24, 1923]

Sec.
4. Municipal authorities.

Be it enacted by the legislature of West Virginia:

That section four of chapter twenty-one of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one (municipal charters), be amended and re-enacted to read as follows:

Section 4. The municipal authorities of said city shall consist of a mayor, to be elected by the voters of the whole city, a recorder, to be elected by the voters of the whole city, and two councilmen from each ward, to be elected by the voters of such ward who together shall form a common council, and who shall receive such compensation as the council shall from time to time determine, which compensation shall not be increased or diminished during their term of office; but in no event shall the compensation of any councilman elected by any ward exceed fifty dollars per year.

CHAPTER 81

(House Bill No. 210—Mr. Dailey)

AN ACT to amend and re-enact certain sections of the charter of the city of Martinsburg as found in chapter six, acts of one thousand nine hundred and fifteen, municipal charters, and chapter one hundred and twenty, acts of one thousand nine hundred and seventeen.

[Passed April 24, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.
46-a. Water works, superintendent etc.,
rates; powers of city council
under section.

SEC.
58. No free passes or gifts; excep-
tions.

Be it enacted by the Legislature of West Virginia:

That sections forty-six-a and fifty-six of chapter six of the acts of the legislature of one thousand nine hundred and fifteen, as amended by chapter one hundred and twenty of the acts of the legislature of one thousand nine hundred and seventeen, be amended and re-enacted so as to read as follows:

Section 46-a. The council shall have general charge of its
2 water works, and the mayor shall have the power to employ a
3 superintendent of said works, and such other employes and la-
4 borers as the council may deem expedient and necessary; and
5 the council shall fix their compensation. The council shall fix
6 and regulate, subject to the approval of the public service com-
7 mission, the rates and charges for water supplied to all con-
8 sumers, and shall prescribe such reasonable rules and regula-
9 tions as may be deemed proper with reference to the use and
10 consumption of water taken from the city mains, the terms and
11 conditions upon which connections to said mains shall be made,
12 and the place and manner thereof. The council shall further
13 have the power to provide penalties, by way of additional
14 charges, for the failure to pay water rates promptly; and to
15 this end, water rates and charges, when assessed in the name of
16 the owner of any real estate, shall be a lien from the first day of
17 April, of the year in which same are assessed, upon the said
18 real estate for the benefit of which the water is furnished,
19 whether the water so furnished be for the use of the owner,
20 agent or tenant of such real estate; and the water rates and
21 charges as aforesaid may be distrained for and collected in the
22 same manner in which the collection of taxes owing to the city
23 may be enforced. The collection of water rates and charges may
24 also be enforced by shutting off the supply of water from de-
25 linquents, and the refusal thereafter to furnish water to de-
26 linquents, until all arrearages are paid.

Sec. 58. No person, firm or corporation shall give, or offer to
2 give to any city officer, employe or agent, nor shall any city
3 officer, employe or agent be permitted to accept, receive or so-
4 licit from any person, firm or corporation, any free pass or free

5 transportation or free gift of the same, for himself or other per-
6 son, on any railroad, street car or traction line, or any free gift
7 of any water, light or heat, or any badge, ring, water or other
8 thing of value, from any person, firm or corporation having any
9 franchise or contract from, under, or with said city, or from
10 any other officer, agent or employe of said city, or from any
11 other person whatsoever, who may in any way or manner, be
12 affected by the performance or non-performance of any official
13 duty or obligation by such officer, employe or agent of said city,
14 and the acceptance or solicitation of anything herein forbidden,
15 shall be absolute ground of removal or dismissal from office, by
16 the council in the case of an elective office, and by the appoint-
17 ing power in the case of any appointive office. *Provided, how-*
18 *ever,* this shall not apply to the employes, officers, agents, sur-
19 geons, physicians and attorneys at law of any interstate rail-
20 road company, who receive passes incident to their service to
21 such company.

22 The circuit court of Berkeley county, upon petition of ten
23 voters of said city, shall have like power of removal of all of-
24 ficers, employes and agents as given in this act to any city of-
25 ficer, in any way or manner; *provided,* that the health commis-
26 sioner and all policemen and firemen, together with the chiefs
27 thereof, shall have the right to accept, and street railway com-
28 panies shall have the right to give such health commissioner,
29 policeman and fireman, free transportation over any street rail-
30 way in said city, while in the performance of their duties.

CHAPTER 82

(House Bill No. 606—Mrs. Gates)

AN ACT to amend and re-enact section two of chapter two of the acts of the legislature of one thousand nine hundred and nine; and section three of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, and known as the charter of the city of Charleston, and so designated in the bound volume of municipal charters, and to extend and enlarge the boundaries of the said city of Charleston, and to provide for the extension of the government of the city of Charleston over the said territory to be annexed.

[Passed April 27, 1923. In effect April 1, 1925. Became a law without the approval of the Governor]

SEC.

2. Corporate limits of City of Charleston; majority vote of each new section necessary to be included in city; general	election laws to govern; declaring results; public utilities rights not affected; inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

That section two of chapter two of the acts of the legislature of one thousand nine hundred and nine and section three of chapter nine of the acts of the legislature of one thousand nine hundred and nineteen, known as the charter of the city of Charleston, and so designated in the bound volume of municipal charters, be, and the same are hereby amended and re-enacted so as to read as follows:

Corporate Limits.

Section 2. The corporate territory limits of the city of
 2 Charleston shall comprise all that part of the territory of the
 3 magisterial districts of Charleston, Loudon, Jefferson, Union
 4 and Malden in the county of Kanawha and state of West Vir-
 5 ginia which is bounded and described as follows:

6 Beginning at the mouth of Campbells Creek on the north
 7 side of Kanawha river at the low water mark; thence a straight
 8 line to the foot of 27th street of Kanawha City on the east side
 9 thereof; thence with the east line of said 27th street continued
 10 to a point one thousand feet south of the center line of the
 11 west-bound track of the C. & O. railroad; thence keeping one
 12 thousand feet south of said center line of said C. & O. railroad
 13 and parallel thereto to a point in Lick Branch; thence a
 14 straight line to the southwest corner of the subdivision known
 15 as Anderson Heights on Porter's Hollow road; thence a straight
 16 line to the present corporation line of said city of Charleston;
 17 thence with said corporation line to a point seven hundred feet
 18 east of the forks of Ray's branch road and Davis creek
 19 road; thence a straight line to the southern line of the prop-
 20 erty of Mrs. Alice Newcomer; thence with her line, and the
 21 extension thereof, to a point five hundred feet south of Oak
 22 Drive, and with a line five hundred feet south of Oak Drive,
 23 and parallel thereto, to a point five hundred feet east of Ferry
 24 branch road; thence with a line five hundred feet east of said
 25 road and parallel thereto in a southerly direction to a point in
 26 Joplin branch; thence down Joplin branch to the southeast
 27 corner of the present corporation line of South Charleston;

28 thence with the southern line thereof to Davis creek; thence
29 down Davis creek to the north line of the old Kanawha and
30 James River turnpike; thence with the north line of said turn-
31 pike to Uptons creek; thence down Uptons creek to the south
32 side of Kanawha river to a point opposite Tyler creek; thence
33 in a northerly direction and across the Kanawha river to the
34 mouth of Tyler creek; thence with the meanderings thereof up
35 Tyler creek to a point five hundred feet north of the Dunbar
36 and Lock Six road; thence in an easterly direction with a line
37 five hundred feet north of and parallel to the said Dunbar and
38 Lock Six paved road to a point on the Sissonville road; thence
39 a straight line to the intersection of South Middle and South
40 High street in the subdivision known as Bellevue; thence a
41 straight line to the southwest corner of Highland road in Edge-
42 wood, the same being on the eastern line of the old Summers
43 property; thence with said Summers line in a northerly direc-
44 tion to the easterly line of Edgewood drive; thence following
45 the easterly line of Edgewood drive in a southerly direction to
46 the southern line of the Edgewood Building Association;
47 thence with said line to the end of Carr street; thence a
48 straight line to the northwest corner of Sunkist Heights;
49 thence with the northerly line of Sunkist Heights extended to
50 a point five hundred feet east of Magazine road; thence a
51 straight line to the northeast corner of the Savage addition;
52 thence with the lines of same to a point five hundred feet north
53 of Crescent road; thence parallel with said Crescent road and
54 five hundred feet north therefrom to the westerly line of
55 Charleston Heights; thence with the westerly, northerly, and
56 easterly lines thereof to a point on the present corporation line
57 of the City of Charleston; thence following said line to its
58 intersection with Coal branch near the forks thereof; thence
59 to the forks of Coal branch; thence with the left-hand fork of
60 Coal branch to a point on top of the ridge; thence a straight
61 line to the northwest corner of the sub-division known as
62 Westview; thence with the north line of Westview to the
63 northeast corner to the Rosa F. Smith property; thence with
64 the north line of said property to the northeast corner thereof;
65 thence a continuous straight line to a point five hundred feet
66 east of Wilson branch; thence with a line five hundred feet
67 east and parallel to said branch in a southerly direction to a
68 point five hundred feet north of Malden road; thence with a

69 line five hundred feet north of Malden road and parallel there-
70 to to Campbells creek; thence down Campbells creek to the
71 beginning.

72-82 Embraced within the above boundaries is the incorporated
83 town of South Charleston in Louden district, and for the pur-
84 poses of this bill the territory herein proposed to be included
85 shall be divided into sections as follows: (1) The city of
86 South Charleston; (2) that part of Louden district within the
87 above proposed boundaries lying east of the present corporate
88 lines of the city of Charleston; (3) that part of Louden dis-
89 trict within the above proposed boundaries lying west of the
90 present corporate lines of the city of Charleston; (4) that part
91 of Jefferson district included within the proposed boundaries;
92 (5) that part of Union district included within the proposed
93 boundaries; (6) that part of Charleston district included with-
94 in the proposed boundaries lying west of Elk river; (7) that
95 part of Charleston district included within the proposed boun-
96 daries lying east of Elk river; (8) that part of Malden district
97 included within the proposed boundaries.

98 In the election hereinafter described each of the above sec-
99 tions shall vote as a unit and the decision of a majority of the
100 qualified voters casting their vote in any section shall deter-
101 mine only whether that section shall be included in the pro-
102 posed boundaries of the city of Charleston. But in no event
103 shall any section be included within the corporate limits of
104 Charleston if any section votes to stay out which intervenes
105 between the present city of Charleston and the section which
106 votes to come into the proposed corporate boundaries.

107 An election may be held as hereinafter provided for in the
108 city of Charleston at which it shall be determined whether or
109 not the present city limits shall be extended as above pro-
110 posed; at which election, if a majority of the votes cast is
111 against extending the city limits no sections as above described
112 shall be included; but if at such election a majority of the
113 votes cast is in favor of extending the city limits as above pro-
114 posed no section as above described shall be included within
115 the proposed extension which has not voted to be included.

116 Upon receipt of a written petition from each, any or all
117 of the above described sections, with the exception of the city
118 of South Charleston, as the council of the city of Charleston
119 deems advisable, signed by twenty-five percent of the resident
120 qualified voters of each section based upon a census of said

121 section, which census the council of the city of Charleston is
122 authorized to have made as soon as possible after the enact-
123 ment of this bill, petitioning the said city council of the city
124 of Charleston to hold an election for the purposes herein
125 described; and upon receipt of a similar petition authorized
126 and directed by the city council of the city of South Charles-
127 ton directed to the city council of the city of Charleston, or
128 should said city council of South Charleston refuse to petition
129 the city council of Charleston as aforesaid, upon receipt by the
130 city council of Charleston of a similar petition signed by
131 twenty-five percent of the qualified voters of the city of South
132 Charleston based upon the number of votes cast at the last
133 City election, the city council of the city of Charleston may
134 order an election to be held for the purposes herein described.

135 But before such election is held such extension of bound-
136 aries shall be proposed by resolution of the city council of the
137 city of Charleston, which resolution shall (a) accurately de-
138 fine the boundary lines of the territory proposed to be annexed
139 as herein set forth, (b) fix a time for holding a special election
140 at which the proposed change of boundaries shall be submit-
141 ted to the qualified voters of the city of Charleston and of the
142 territory proposed to be annexed for approval or rejection, (c)
143 direct that notice of such election be published in each of the
144 daily newspapers of the city of Charleston once a week for four
145 successive weeks, the last publication to be not more than ten
146 days before the day of the election, and (d) prescribe the form
147 of ballot to be used at such election.

148 In case said election is held the city council of the city of
149 Charleston, through the solicitor of the city of Charleston,
150 shall notify the mayor of each municipality within the terri-
151 tory herein described, of the proposed extension of the bound-
152 aries at least six weeks before the time fixed for the election
153 herein provided for; thereupon it shall be the duty of the city
154 council of such municipality to provide for such election by
155 appointing judges and clerks for each precinct within said
156 municipality, and certify the names of the appointees to the
157 city council of Charleston within three weeks of the service of
158 notice on the mayor thereof. If such certificate is not so filed
159 the city council of Charleston shall appoint such judges and
160 clerks of election. Qualified voters of any of the sections above
161 described which are within the limits proposed by resolution
162 of and publication by the city council of the city of Charles-

163 ton, other than the city of South Charleston, shall vote at such
164 election at such voting places as the city council of Charleston
165 shall select, and it shall be the duty of the said council to
166 designate for such purpose such places within each section as
167 are necessary and convenient for the voters therein, and ap-
168 point such judges and clerks as are necessary for the conduct
169 of such election therein.

170 So far as they are applicable, and except as specific provision
171 is made in this chapter, such election shall be governed by the
172 general election laws of the state of West Virginia.

173 When the result of such election is ascertained and certified,
174 the mayor of the city of Charleston shall issue his proclama-
175 tion of such result and cause the same to be published in each
176 daily newspaper in the city of Charleston within five days of
177 such certification. *Provided, however,* that said election for
178 the annexation of the territory within the boundaries herein
179 set forth shall be held not before August fifteenth, next after
180 this act shall go into effect, and not later than September fif-
181 teenth, thereafter, one thousand nine hundred and twenty-five.
182 And if a majority of the votes cast in each section at such
183 election shall be in favor of such extension, then all of the ter-
184 ritory within the boundaries of each section so voting in favor
185 of the extension herein described shall be and become a part
186 of the city of Charleston on the first day of October, one
187 thousand nine hundred and twenty-five, and beginning on
188 that date the city of Charleston shall include all the territory
189 within the boundaries of the sections voting in favor of the
190 extension herein set forth, in addition to the territory consti-
191 tuting the city of Charleston as at present bounded; and the
192 corporate existence of any municipality included within the
193 boundaries herein described shall thereupon cease and deter-
194 mine; except that no moneys in the treasuries of the several
195 municipalities affected shall be turned over to the treasurer of
196 the city of Charleston; and no tax shall be levied on the tax-
197 able property within the boundaries of the territory annexed
198 nor upon the inhabitants thereof until proper representation
199 of the said annexed territory in the council of the city of
200 Charleston is provided according to law. And if a majority of
201 the votes cast at such election shall not be in favor of such
202 extension, then the boundaries of the city of Charleston shall
203 remain as they now are, and the territory within the bound-
204 aries set out shall be in no way affected by such election.

205 All expenses of holding such election the payment whereof
206 is now provided by law shall be paid by the city of Charles-
207 ton.

208 If at the time of the extension of its boundaries the city of
209 Charleston shall have a bonded indebtedness, the taxes there-
210 after provided for such indebtedness, principal and interest,
211 shall be levied upon the taxable property within the corpo-
212 rate limits of the city of Charleston. If the town of South
213 Charleston shall at the time of such annexation have a bonded
214 indebtedness, then the taxes thereafter levied to provide for
215 such bonded indebtedness, principal and interest, shall be
216 levied upon the taxable property within the corporate limits
217 of the city of Charleston. *Provided, however,* that any money
218 or moneys in the hands of the treasurer of the town of South
219 Charleston derived from the issuance of bonds or which may
220 accrue by reason of the provisions heretofore made for the
221 issuance of bonds shall be expended within the territory com-
222 prising the municipality at the time of the issuance of said
223 bonds, and in the manner and for the purposes provided and
224 intended at the time of the issuance or provision for the is-
225 suance of such bonds.

226 Should the territory herein described be annexed to the
227 city of Charleston in the manner herein set forth, then before
228 and after the time of such annexation all of the debts and ob-
229 ligations of the town of South Charleston shall become and be
230 the debts and obligations of the city of Charleston, and shall
231 be enforceable against the city of Charleston to the same extent
232 as they might have been enforced against the town of South
233 Charleston.

234 Franchises and rights of public utilities in the territory
235 proposed to be annexed in the event of such annexation shall
236 be preserved and remain in full force and effect.

237 In case said election is held and any or all of the above de-
238 scribed sections are to be included in the proposed extension
239 it shall be the duty of the city council of the city of Charles-
240 ton to immediately divide the said city of Charleston into
241 wards and do all other things required of it by law due to
242 the change of the corporate limits of the said city of Charles-
243 ton.

244 The city council shall have the power to district and sub-
245 divide the city into wards at such time and in such manner as
246 they may deem fit.

247 The city council shall re-district and re-subdivide each of
248 the said wards into voting precincts.

249 In the event of annexation each of the new wards shall be
250 entitled to representation on the council of the city of Charles-
251 ton by one councilman, and the number of councilmen at large
252 shall be increased so that there shall be seven, so that the total
253 number of councilmen shall be thirty. In the event that the
254 majority of votes cast shall be in favor of annexation, the
255 council of the city of Charleston shall provide for a special
256 election to provide representation for the territory annexed
257 and to provide for the election of two additional councilmen
258 at large; *provided*, that such election shall be held not later
259 than November first, one thousand nine hundred and twenty-
260 five.

261 In the event a majority of the votes cast in the election here-
262 tofore provided for shall be in favor of annexation, all acts
263 or parts of acts inconsistent herewith shall be and are hereby
264 repealed.

265 This act shall take effect on the first day of April, one
266 thousand nine hundred and twenty-five.

CHAPTER 83

(House Bill No. 643—Mr. Davisson)

AN ACT to amend and re-enact section twenty-six of chapter fourteen of the acts of the legislature of one thousand nine hundred and five, at the regular session, as amended by chapter twenty-two of the acts of the legislature of one thousand nine hundred and twenty-one, at the regular session, relating to the incorporating of the town of Salem, and defining the powers of the city council thereof.

[Passed April 13, 1923. In effect from passage. Approved by the Governor April 24, 1923]

Sec.
26. Powers of council.

Be it enacted by the Legislature of West Virginia:

That section twenty-six of chapter fourteen of the acts of the legislature of one thousand nine hundred and five, at the regular session, as amended by chapter twenty-two of the acts of the

legislature of one thousand nine hundred and twenty-one, at the regular session, be amended and re-enacted so as to read as follows:

Section 26. The council of said city shall have power to lay
2 off, vacate, close, open, alter, grade and keep in good repair
3 the roads, streets, alleys, pavements, sidewalks, crosswalks,
4 drains and gutters therein for the use of the citizens and the
5 public, and to improve and light the same, and to keep them
6 free from obstructions of every kind; to regulate the width
7 of the pavements, sidewalks, footways, drains and gutters to
8 be kept in good order, free and clean by the owners or oc-
9 cupants of the real property next adjacent thereto; to estab-
10 lish and regulate markets, prescribe the time of holding the
11 same, provide suitable and convenient buildings therefor, and
12 prevent the forestalling of such markets; to prevent injury or
13 annoyance of the public or to individuals from anything
14 dangerous, offensive or unwholesome; to prohibit or regulate
15 slaughter houses, tan houses and factories within the cor-
16 porate limits; and to prohibit the exercise of any offensive
17 business, trade or employment, to abate all nuisances within
18 the corporate limits, and to require or compel the abatement
19 or removal thereof at the expense of the person causing same,
20 or by or at the expense of the owner of the ground at the
21 place they are found; to be caused to be filled up, raised or
22 drained by or at the expense of the owner, any city lot or
23 tract of land covered or subjected to be covered by stagnant
24 water; to prevent horses, hogs, cattle, sheep and other animals
25 and fowls of all kinds from going or being at large in said
26 town, and as a means of prevention, said council may pro-
27 vide for the impounding and confining of said animals and
28 fowls; and upon the failure to reclaim, for the sale thereof;
29 to protect places of divine worship, and preserve order in
30 and about the premises where and when such worship is held;
31 to protect places of public instruction and schools, and to pre-
32 serve order in and about all the school buildings; to regu-
33 late the keeping of gunpowder and other dangerous explo-
34 sives and substances; to regulate the building of houses and
35 other structures; for the maintaining and making of division
36 fences by the owners of adjacent premises; and for the proper
37 drainage of town lots and other parcels of land by or at the
38 expense of the owner or occupant thereof, when such drain-

39 age shall be deemed necessary for the protection of public
40 health; to provide against danger or damage by fire; to pun-
41 ish assault and batteries; to prohibit the keeping of or loiter-
42 ing in or visiting houses of ill-fame, or congregating or loiter-
43 ing in saloons or upon streets of said city; to prevent lewd or
44 lascivious conduct, the sale or exhibition of indecent pictures or
45 other representations; the desecration of the Sabbath day; to
46 prevent swearing, the illegal sale of intoxicating liquors, mix-
47 tures and other preparations, porter, beer, ale, wine or other
48 drinks of like nature; to protect the persons of those residing or
49 being within said town; to purchase, contract for and take care
50 of, or sell, lease or otherwise dispose of at public or private sale,
51 all public buildings, structures and real estate, including
52 libraries and hospitals deemed proper for the use of said town,
53 to build or purchase or lease and use a suitable place of imprison-
54 ment within said city for the safe-keeping and punishment of
55 persons charged with or convicted of the violation of ordinances;
56 to erect, or authorize or prohibit the erection of gas or water
57 works within the corporate limits; to prevent injury of such
58 works, or the pollution of any gas or water used or intended to
59 be used by the people or by individuals; to borrow money on the
60 faith and credit of the city by the issue and sale of bonds in the
61 manner prescribed by law in an amount not to exceed five per
62 centum of the taxable value of the property in the city for the
63 purpose of raising funds to erect, construct, extend, add to or
64 replace the water works system or plant or any part thereof (in-
65 eluding the purchasing, leasing, selling and disposing of real
66 estate), either within or without the corporate limits of said city,
67 or to refund any bonds of the city, the proceeds of which were
68 expended in the erecting, constructing, extending, repairing or
69 maintaining the water works system or plant, or any part there-
70 of, or to refund any bonds of the city, the proceeds of which
71 were expended in paving or sewerage the streets and alleys of
72 the city; to provide for and regulate the measuring and weighing
73 of hay, coal, lumber or other articles sold or kept or offered for
74 sale within said town; to create by ordinance such committee
75 and boards, and delegate such authority thereto as may be
76 deemed necessary or advisable; to establish rates and charges for
77 weighing and measuring of hay, coal, lumber or other articles;
77a to regulate the running speed of engines and cars within said
78 town; to provide for the annual assessment of taxable property

79 therein, including dogs kept in said city, and to regulate their
 80 running at large; to provide a revenue for the city for municipal
 81 purposes and to appropriate such revenue to its expenses, and to
 82 take such measures as may be deemed necessary or advisable to
 83 protect the property, public or private, within said city; to pre-
 84 serve and maintain peace, quiet and good order therein, and to
 85 preserve and promote the health, safety and well being of the
 86 inhabitants thereof.

CHAPTER 84

(Senate Bill No. 11—Mr. Hill)

AN ACT to amend and re-enact chapter thirty of the acts of one thousand nine hundred and five of the legislature of West Virginia, creating the independent school district of Sistersville, West Virginia.

[Passed April 17, 1923. In effect from passage. Approved by the Governor April 25, 1923]

<p>SEC.</p> <ol style="list-style-type: none"> 1. Boundaries of school district. 2. Board of education; how elected; term of office. 3. Elections; time, place and manner of holding. 4. Same; proclamation for; publication. 5. Same; by whom held; canvass of result; officer elected to qualify within twenty days. 6. Vacancies in office; how filled. 7. President of board; duties and powers. 8. Secretary of board. 9. Meetings of board; quorum; compensation of members. 	<p>SEC.</p> <ol style="list-style-type: none"> 10. Board to be a body corporate; powers. 11. Board to have control of all schools; other powers as to enumeration, text books, apparatus, etc. 12. Board may acquire or sell buildings, etc. 13. Separate schools for colored children. 14. Superintendent; powers and duties of. 15. Teachers, janitors, etc.; employment of. 16. Estimates and levy. 17. Acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That chapter thirty of the acts of the legislature of one thousand nine hundred and five, creating the "Independent school district of Sistersville" in Tyler county, be amended and re-enacted to read as follows:

Section 1. The independent school district of Sistersville shall include the city of Sistersville and the territory contained within the following described boundaries and being the same territory included in what was school sub-district number six of Lincoln district, Tyler county, West Virginia, and which is particularly described as follows:

7 Beginning at a stake and stone pile on the bank of the Ohio
8 river, five hundred and twenty-five feet down said river from
9 a common corner of lands of T. N. Wells and Eph. Wells on
10 said river bank, said beginning corner being in line with and
11 opposite the entrance to the lane commonly known as the Eph.
12 Wells' lane; thence in a straight line and parallel with the
13 division line between lands of said Eph. and T. N. Wells, S.
14 50 E. four thousand feet to a stake and stone pile in the back
15 line of lands of said Eph. Wells, being an old patent line, and
16 being the division line between the lands of said Eph. Wells
17 and Nathan Salisbury; thence up and with said old patent line
18 N. 36 E. eight thousand four hundred and sixty feet, to a large
19 white oak in the south line of land of J. T. Jones; said white
20 oak being the original northeast corner of what is commonly
21 known as the Samuel Corbitt or Raleigh Moore tract, now a
22 corner between Lazear and the McCoach and West tracts;
23 thence continuing the same straight line and crossing the J.
24 T. Jones, Eveline Russell and Henry W. McCoy tracts of land
25 to a black oak, being the southeast corner of Joshua Russell
26 farm, and also an established corner to said Joshua Russell
27 farm and land now owned by said Henry W. McCoy; thence
28 with the division line between the said Joshua Russell farm
29 and said land of Henry W. McCoy, N. 32 W. two thousand
30 five hundred and seventy-four feet to a white hickory (now
31 gone), being an old original patent corner on the bank of the
32 said Ohio river; thence down the said river with the meanders
33 thereof and binding thereon eleven thousand three hundred
34 and fifty feet to the stone pile, the place of beginning. The
35 territory described above is identical with what was sub-school
36 district number six of Lincoln district, Tyler county, West Vir-
37 ginia, and now constitutes and is known as the "Independent
38 school district of Sistersville."

See. 2. There shall be a board of education of the inde-
2 pendent school district of Sistersville consisting of three com-
3 missioners, residents thereof, to be elected by the qualified
4 voters of said district, the term of office of each of whom shall
5 be four years. The present members of the board of educa-
6 tion of said district shall hold office until the expiration of
7 their respective terms, or until their successors have been
8 chosen.

Sec. 3. On the first Tuesday in May, one thousand nine hundred and twenty-three, and every two years thereafter there shall be an election held for the independent school district of Sistersville, for the purpose of electing one or more commissioners respectively of the board of education of the independent school district of Sistersville. The said commissioners shall be elected for, and hold their office four years, beginning on the first day of July after said election, unless sooner removed from office for cause. For the purpose of said election, there shall not be less than two voting places in the said district, which voting places shall be fixed by the said board, and the places shall be designated by the president of said board in his proclamation for an election as provided for in the next section, and said election shall be held and conducted and the result thereof ascertained and declared in all respects as now provided by law for general elections in this state and as provided for in section five, *excepting, however,* that the said board shall be vested with authority to appoint election officers and to perform all the duties and functions relative to said election.

Sec. 4. Such elections shall be called by the president of the board of education of the independent school district of Sistersville, by a proclamation to the voters of said district, notifying them of the time and place of holding the same, and the purpose thereof, and the places fixed by said board in the said district for holding the said election; said proclamation shall be posted on the front door of the city building in the city of Sistersville, and at two other conspicuous places in the said district at least four weeks previous to the day designated for the said election, or the same shall be published in a newspaper published in Sistersville, once a week for two weeks next previous to day of election.

Sec. 5. Such election or elections under this act shall be held and conducted in the same manner as a municipal election of the city of Sistersville, and shall be held and conducted by the officers appointed by the board of education to hold such election, in accordance with the law of the state and the rules and regulations governing the election of municipal officers of said city; and the officers conducting said election shall ascertain and certify the results to the secretary of said

9 board, within three days thereafter. Such results shall, within
10 ten days after the same is so certified, be noted on the minutes,
11 and the certificates filed with the secretary. And the officer
12 so elected shall, within twenty days after his election or ap-
13 pointment, and before he shall enter upon the duties of his
14 office, take and subscribe the oath of office as prescribed for
15 district officers, as provided by general laws, which may be
16 done before any person authorized by law to administer oaths,
17 or before the president of the board of education of said in-
18 dependent school district, which said oath of office, together
19 with the certificate of the officer administering the same, shall
20 be filed with the said board of education.

Sec. 6. Any vacancy that may occur in the office of school
2 commissioner by death, resignation, refusal to serve or other-
3 wise, shall be filled by the board of education of the district
4 at their first regular meeting thereafter, or as soon as circum-
5 stances will permit, by the appointment of a suitable person,
6 who shall hold his office until the next election of school com-
7 missioners, when a commissioner shall be elected for the un-
8 expired term.

Sec. 7. The board of education shall elect annually, at the
2 first meeting, one of their members to act as president of said
3 board, who shall perform all the duties which are required to
4 be performed by such officer of any board of education, which
5 may not be inconsistent with the provisions of this act.

6 The president shall have one vote as commissioner, and shall
7 not vote upon any question arising in the board by reason of
8 being said officer.

Sec. 8. At the first meeting, the board of education shall
2 elect annually, a suitable person to act as secretary of the
3 board and pay him a reasonable salary to be fixed by the board.
4 The secretary shall serve at the pleasure of the board and shall
5 not be a member thereof. He shall take the oath prescribed
6 by law and give bond if required by the board. He shall re-
7 cord in a book provided for the purpose, all the official acts
8 and proceedings of the board, which shall be a public record,
9 open to inspection to all persons interested therein. He shall
10 perform such other duties as may be required by the board of
11 education or are prescribed by law. He shall have custody
12 and care of all records and papers belonging to the board in-

13 cluding evidences of title, contracts, and obligations and shall
14 preserve the same in the office of the board of education or
15 place designated by the board, properly arranged for refer-
16 ence. He shall annually make such reports to the county super-
17 intendent and other school officers as are required by the gen-
18 eral school law. In his absence, the board may appoint a sec-
19 retary *pro tempore*.

Sec. 9. The board of education shall hold regular meetings
2 at such times and places as it may designate by proper order
3 entered in its record; and special meetings may be called by the
4 president or at the request of any member, by the secretary.
5 For the transaction of business, a quorum of not less than two
6 members shall be required and the concurrence of two mem-
7 bers shall be required to elect a superintendent or teachers and
8 to decide all questions involving the expenditure of money.
9 Each member of the board of education shall receive as com-
10 pensation for his services the sum of five dollars for each reg-
11 ular or special meeting he attends; in addition thereto, the
12 president of the board shall receive fifty dollars per annum.

Sec. 10. The board of education of the independent school
2 district of Sistersville, shall be a body corporate in law, and
3 as such may purchase, hold, sell or convey real estate or per-
4 sonal property for the purpose of education within the district;
5 may receive any gifts, grant, donation or devise; may become
6 party to suits and contracts and do other corporate acts. They
7 shall have the management and be vested with the title to all
8 real and personal property for the use of the public schools
9 within the district, and shall manage and dispose of the same
10 as will, in their opinion, best subserve the interest of the dis-
11 trict.

Sec. 11. The board of education shall have exclusive con-
2 trol of all schools within the district; shall fix the length of the
3 school term and shall have power to make all necessary rules
4 and regulations for the government of the schools of the dis-
5 trict, for the admission of pupils therein and for the exclusion
6 of pupils whose attendance would be dangerous to the health
7 or detrimental to the morals or discipline of the school. Said
8 board shall arrange for the taking of the enumeration each
9 year of all the youth living within the district, between the
10 ages of six and twenty-one before the first day of July. They

11 may prescribe text books for the use of the schools in the dis-
12 trict, supplementing the list adopted for the county, and may
13 furnish books and stationery for the use of indigent children
14 in attendance at the schools. They may furnish all necessary
15 apparatus and books for the use of the schools and incur all
16 other expenses necessary to make the system efficient for the
17 purpose for which it was established, and pay the same from
18 the building fund of the district. They shall have power to
19 establish such other departments in said schools, such as man-
20 ual training, music, drawing, or other departments, as shall
21 be deemed advisable to the interest of said independent school
22 district.

Sec. 12. The board of education shall provide by purchase,
2 lease, building, or otherwise, a sufficient number of suitable
3 school houses and other buildings to meet the educational needs
4 of the district, and shall also provide such furniture, fixtures,
5 and apparatus for said school houses and other buildings, as
6 may be necessary for the effectiveness of the schools and for
7 the convenience, health and cleanliness of the pupils, and shall
8 cause the school property to be kept in good order and repair.
9 The board of education shall have authority to sell any school
10 buildings when in its judgment, they are improperly located
11 or unsuitable for school purposes. Said board, may at its
12 discretion, provide proper medical and dental inspection of
13 pupils.

Sec. 13. The board of education shall establish within the
2 district one or more separate schools for colored children,
3 whenever they deem it necessary, so as to afford them so far
4 as practicable the advantages and privileges of a free school
5 education. All such schools shall be under the management
6 and control of the board of education, and shall be subject
7 to like general regulations as other schools of the district.

Sec. 14. The board of education shall have authority to
2 appoint a superintendent of schools for the independent school
3 district of Sistersville at any time after the first of January
4 in any year for a term of not more than four years. The
5 compensation of said superintendent shall be fixed by the
6 board of education. Said superintendent, in addition to the
7 duties specified in this act, shall perform such other appro-
8 priate duties with relation to the schools of Sistersville as
9 the board may prescribe. He shall be liable to removal by

10 the board of education for any palpable violation of the law
11 or omissions of duty, or for other good and sufficient cause,
12 but he shall not be removed unless charges be preferred to
13 the board by a member thereof, and notice of a hearing, with
14 a copy of the charges delivered to him, and an opportunity
15 be given him to be heard in his defense.

16 Said superintendent shall exercise general supervision over
17 all schools of the district and shall prepare and revise, with
18 the approval of the board, courses of study to be used in the
19 schools.

20 He shall recommend for appointment teachers to be em-
21 ployed in the district schools and shall make all necessary
22 reports and, insofar as he is able, shall furnish such informa-
23 tion relating to the schools as the board of education may de-
24 sire.

Sec. 15. At any time after January first, the board of
2 education shall have power and authority to employ, for the
3 ensuing school year, teachers, janitors, truant officer and other
4 employes for the public schools of the district and fix their
5 salaries and shall establish rules and regulations to which they
6 shall be subjected and may be removed at any time for proper
7 cause. Said board shall have the power of prescribing the
8 qualifications of teachers in the schools of the district, and
9 may appoint an examining committee for the purpose of ex-
10 amining applicants for positions as teachers and granting cer-
11 tificates to those found qualified to teach in the schools.

Sec. 16. It shall be the duty of the board of education of
2 the independent school district of Sistersville annually, at the
3 same time and in the same manner now provided, or that may
4 hereafter be provided by the general school law of this state,
5 for the ascertaining and making of estimates and the fixing
6 and laying of school levies by the boards of education of the
7 various school districts within the state for the support of the
8 free schools therein, to ascertain and to make such estimates
9 of the amounts necessary for the support of the schools within
10 the said independent district, to determine, fix and lay such
11 levies on the property located within said independent dis-
12 trict, for the support therein. It shall be the duty of the board
13 of education annually, at such meeting to levy as many cents
14 on each one hundred dollars of valuation of the taxable prop-
15 erty of the district, according to the last assessment thereof,

16 as will produce the amount shown by the estimate of said board
17 to be necessary to be levied for the different school fund pur-
18 poses as provided in the general school law of the state, which
19 will continue adequately the schools of the district for a min-
20 imum term of nine months and the board of education of said
21 independent school district is hereby authorized and empowered
22 to lay a levy in addition to the levies authorized by the general
23 school law of the state, sufficient for all purposes to conduct
24 the schools of said independent district for the term fixed.

Sec. 17. All provisions of the general school law of this
2 state, and all laws and acts heretofore existing, which are in
3 any manner inconsistent with the provisions of this act, shall
4 be void within the district, otherwise, the said general school
5 law shall remain in full force and effect in this district, as
6 elsewhere in this state.

CHAPTER 85

(Senate Bill No. 31—Mr. Marsh)

AN ACT to amend and re-enact section nine of chapter seventy-five
of the acts of the legislature of West Virginia of the year one
thousand nine hundred and eleven, relating to the salary of
the secretary of the board of education of the independent
school district of Parkersburg.

[Passed April 17, 1923. In effect from passage. Approved by the Governor
April 24, 1923]

SEC.
9. Duty of secretary; salary; re-
moval.

Be it enacted by the Legislature of West Virginia:

That section nine of chapter seventy-five of the acts of the leg-
islature of West Virginia for the year one thousand nine hundred
and eleven be amended so as to read as follows:

Section 9. The secretary shall record in a well bound book
2 to be provided for the purpose, all official acts and proceedings
3 of the board, which shall be a public record open to the in-
4 spection of all persons interested therein; he shall also keep
5 and preserve books of account which shall show the resources
6 of the board for each current year and the funds from which

7 the same is derived; all credits to be charged against said re-
 8 sources by way of delinquents, commissions and otherwise; all
 9 disbursements made by the board and on account of what fund,
 10 and the balance to the credit of each fund, together with a
 11 descriptive entry, showing for what purpose each item of dis-
 12 bursement is made, which books of account shall always show
 13 the financial resources of the district and shall always be open
 14 to the inspection of any taxpayer of the said district; he shall
 15 also preserve in his office all papers containing evidence of
 16 title, contract and obligations; and in general, shall record and
 17 keep in his office all records, papers and documents as shall be
 18 required by this act, and perform such duties, not inconsistent
 19 herewith, as may be prescribed by the board; he shall make
 20 such reports as are required to be made by secretaries of the
 21 board of education by the general school laws of the state;
 22 for his services he shall receive such salary as may be fixed
 23 by the board, and he may be removed at any time by a ma-
 24 jority of the members of the board in regular session.

CHAPTER 86

(Senate Bill No. 74—Mr. Arnold)

AN ACT to provide for the establishment of a county high school
 in the county of Upshur, and to provide for a special levy and
 a board of trustees for the same.

[Passed April 19, 1923. In effect from passage. Approved by the Governor
 April 24, 1923]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Board of education; who consti-
tutes; secretary. 2. Board to be body corporate. 3. Board to purchase site for school;
for what districts; name of. 4. Board to lay levy; amount of;
purpose of. | <p>SEC.</p> <ol style="list-style-type: none"> 5. Levy for support of school and
teachers' fund; how laid. 6. Salary of members and secre-
tary; how paid. 7. Powers of board. 8. Oaths. 9. Government of school when com-
pleted; acts in conflict repealed. |
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Be it enacted by the Legislature of West Virginia:

Section 1. The presidents of the boards of education of
 2 Banks district, Buckhannon district, Meade district, Union dis-
 3 trict, Warren district and Washington district, together with
 4 the county superintendent of schools of said county shall consti-
 5 tute an Upshur county board of education for said high school.

6 The county superintendent of schools shall be ex-officio member
7 of said board and a president of this board and a secretary shall
8 be appointed at its first regular meeting in the year.

Sec. 2. The Upshur county high school board shall be a
2 body corporate and as such shall have and exercise all rights
3 and powers now conferred by law upon district boards of edu-
4 cation.

Sec. 3. Said board of education shall, as soon as practicable
2 after the passage of this act, purchase or secure by condemna-
3 tion, a site of not less than ten acres of land in a convenient
4 and suitable location and shall erect thereon a suitable building
5 or buildings and shall establish therein a high school to be open
6 without cost of tuition to all pupils of high school grade in
7 Banks district, Buckhannon district, Meade district, Union dis-
8 trict, Warren district and Washington district, and said school
9 to be known as the Upshur county high school.

Sec. 4. For the purpose of purchasing a site and erecting
2 and equipping a building or buildings for said high school, the
3 county high school board is hereby empowered to lay a levy of
4 not more than thirty cents on each one hundred dollars' valua-
5 tion of taxable property in the said county, for three succes-
6 sive years beginnig with the year one thousand nine hundred
7 twenty-three; *provided, however*, that no levy shall be laid on
8 the taxable property in the Buckhannon independent district as
9 created by chapter three, acts of the legislature of one thou-
10 sand nine hundred and eight.

Sec. 5. Beginning with the year in which said county high
2 school is ready to open and annually thereafter, the county
3 high school board shall have authority to lay for the support
4 of said high school a levy not to exceed ten cents, on each one
5 hundred dollars' valuation of taxable property for maintenance
6 building fund and a levy not to exceed twenty cents, for a
7 teachers' fund; *provided, however*, that no levy shall be laid
8 on the taxable property in the Buckhannon independent dis-
9 trict, as created by chapter three, acts of one thousand nine hun-
10 dred and eight. Said levies shall be laid at the time and in the
11 same manner that school levies are laid by district boards of
12 education.

Sec. 6. The members of the county high school board, ex-
2 cept the county superintendent of schools, shall receive for

3 their services five dollars per day for the time actually spent in
4 the work of the board; *provided, however*, that no member shall
5 receive pay for more than twelve days in any one year. The
6 salary of the secretary shall be one hundred dollars per annum.
7 The per diem of members of the board and the salary of the
8 secretary shall be paid out of the county high school mainte-
9 nance building fund.

Sec. 7. Said board of education is hereby authorized, em-
2 powered and directed to contract for the erection of suitable
3 buildings necessary for said school, equipping same with neces-
4 sary furniture, heating apparatus, lights, etc., contract for the
5 employment of a principal, supervisors, teachers, janitors, etc.,
6 for said high school and paying for the same out of said levies
7 and doing whatever is necessary to maintain and run said
8 school in accordance with the general school law.

Sec. 8. Before said members of said board enter upon their
2 respective duties as such board of education, they shall take the
3 several oaths as prescribed by law.

Sec. 9. As soon as said Upshur county high school building
2 shall have been completed and equipped and ready for use, it
3 shall be subject to and be maintained, run and governed by the
4 general school laws of West Virginia, so far as they do not con-
5 flict with this act.

6 All acts and parts of acts inconsistent herewith are hereby
7 repealed.

CHAPTER 87

(Senate Bill No. 203—Mr. Baker)

AN ACT to provide for the establishing of a county high school
in the county of Roane.

[Passed April 26, 1923. In effect from passage. Approved by the Governor
May 1, 1923]

- SEC.
1. Establishes high school; location and name of same; for what districts.
 2. Direction and control of; board of directors; election of; secretary powers and duties of; vacancy; how filled; county superintendent to fill vacancy when board of directors fail.
 3. Board of directors a body corporate.

- SEC.
4. Quorum; tie vote; regular and special meetings; salary of president and members; salary of secretary; how salaries paid.
 5. Authorized to lay levy; amount of; purpose of.
 6. Authorized to lay levy provided in section five.
 7. Provisions for referendum; form of ballot, etc.

Be it enacted by the Legislature of West Virginia:

That a high school be and is hereby established in the county of Roane, to be known as the Roane county high school.

Section 1. That a high school be and the same is hereby established in and for the county of Roane, state of West Virginia, at or near the city of Spencer, for such districts in said county as may ratify this act, which shall be known as the Roane county high school.

Sec. 2. That the direction and control of said high school shall be in the hands of and by a board of directors, consisting of the presidents of the various district and independent district boards of education of Roane county, except as hereinafter provided, who shall annually, at a regular meeting to be held on the first Monday in July of each year, elect one of their number president, and shall at the same time select a competent person not a member of said board of directors as secretary, both of whom shall perform the duties of their respective offices as provided by general law for similar officers of district boards of education, and such other duties as said board of directors may require. A vacancy in either office shall be filled by said board of directors at its first regular meeting after such vacancy occurs, or as soon thereafter as practicable. In case of the failure of the board of directors to fill such vacancy within sixty days after it shall occur, it shall be the duty of the county superintendent of free schools of Roane county to fill such vacancy by appointment. It is *provided, however*, that in the event this act does not become operative in more than two districts in said county by reason of the vote hereinafter provided to be taken, that then and until one or more additional districts shall adopt this act, said board of directors shall consist of all members of the boards of education of the districts so adopting this act.

Sec. 3. Said board of directors shall be a body corporate and known as board of directors of the Roane county high school, and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and shall receive and hold for the use of said high school all gifts, grants or devises of property made to the same and shall be deemed the owner of all property belonging to said high school, and shall be liable for all obligations which may legally exist against it.

Sec. 4. A majority of the board of directors shall constitute a quorum for the transaction of business; and in case of a tie vote, the matter in question shall be referred for decision to the county superintendent of free schools of Roane county. The said board of directors shall hold regular meetings at the office of the secretary at such times as the board may determine; and special meetings may be held at the same place at the call of the president or of the secretary at the written request of two or more members. All calls for special meetings shall be in writing and shall be handed to each member in person or mailed to his proper postoffice address. The said board of directors shall also hold such statutory meetings as are provided by general law for district boards of education. The president of said board of directors shall receive one hundred dollars a year, and the members shall receive five dollars for each meeting attended, not to exceed fifteen in any one year. The secretary shall receive such compensation as the board of directors may determine. Compensation as herein provided shall be paid out of the maintenance fund provided for by said boards of directors, and in the manner provided by general law for district boards of education.

Sec. 5. For the purpose of purchasing a site and of erecting and equipping such building or buildings as may be needed for school and dormitory uses for said high school, said board of directors is hereby authorized and empowered to lay a levy of not to exceed twenty cents on the one hundred dollars' valuation of taxable property in such districts as shall ratify this act, and for the maintenance of the said school the board of directors shall levy annually not to exceed twenty cents on the hundred dollars' valuation of taxable property in such districts as shall ratify this act. It is *provided, however*, that until more than three districts have ratified this act, that said board of directors shall establish and maintain the high school provided by this act in the same manner and by imposing the same levies as is now provided by law for the maintenance of joint district high schools.

Sec. 6. Districts that shall ratify this act and that shall hereafter established and maintain high schools shall be exempt from the levies provided in section five as follows: For a four-year high school, the entire levy; for a three-year high school,

5 three-fourths of the levy; for a two-year high school, one-
6 half of the levy; and for a one-year high school, one-
7 fourth of the levy; and students from the various districts
8 shall be entitled to attend the said county high school free of
9 tuition for such number of years as represents the difference
10 between the length of term provided by their district board
11 of education and the completion of a four-year high school
12 course.

Sec. 7. This act shall take effect in such districts as may
2 ratify the same at a special election which shall be called and
3 conducted by the county court of Roane county, in the man-
4 ner provided by law for conducting general elections, so far
5 as applicable, not later than the fifteenth of June, in the year
6 one thousand nine hundred and twenty-three. Such vote shall
7 be by districts, including the independent school district of
8 Spencer. It is *provided, however*, that there shall be no reg-
9 istration of the voters for said election, but any person other-
10 wise entitled to vote in his precinct who has not theretofore been
11 registered therein, may vote upon making affidavit that he is en-
12 titled to vote at said election. It is also provided that the ballots
13 used at such election shall have written or printed thereon, in
14 effect the following:

15 [] For County High School.

16 [] Against County High School.

17 And all ballots which contain a mark within the square oppo-
18 site "For county high school" shall be counted as votes for
19 establishing said high school, and all ballots with a mark in
20 the square before "Against county high school" shall be
21 counted as votes against establishing such high school. And
22 if a majority of the votes in any district of said county
23 shall be for said high school, this act shall thereupon be-
24 come and be effective in said district. It is further pro-
25 vided that in any district where a majority of the votes cast
26 at said election are against said high school, that in such district
27 the question of the ratification or rejection of this act shall be
28 submitted to the voters therein at any general or primary elec-
29 tion to be held in said district upon a petition presented to the
30 county court of said county, signed by not less than ten per cent
31 of the legal voters therein, as shown by the next preceding reg-
32 istration of such voters. It is *provided, further*, that the of-
33 ficers at each precinct conducting said special election shall

34 consist of three commissioners and two clerks appointed by the
 35 county court of said county, and that each of said officers shall
 36 receive not to exceed the sum of two dollars and fifty cents per
 37 day, and that they shall be paid out of any funds levied or to
 38 be levied by said county court available for that purpose. And
 39 it is also provided that at said special election the places of
 40 voting shall be opened at six o'clock a. m., and closed at six
 41 o'clock p. m.

CHAPTER 88

(Senate Bill No. 218—Mr. Coffman)

AN ACT to authorize the board of education of Coal district, in Harrison county, to lay a special levy for the years one thousand nine hundred and twenty-three and one thousand nine hundred and twenty-four, for the purpose of securing sufficient funds to complete the Victory high school building, and the building and construction of an addition thereto, located in said district, and the completion and construction of such other buildings, in said district, as may be deemed necessary by said board.

[Passed April 21, 1923. In effect ninety days from passage. Approved by the Governor April 26, 1923]

<p>SEC. 1. Special levy; amount of; purpose of.</p>	<p>SEC. 2. Provision for referendum. 3. Application of proceeds.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Coal district in Harrison county, is hereby empowered and authorized, subject to ratification as hereinafter specified, in the years one thousand nine hundred and twenty-three and one thousand nine hundred and twenty-four, to lay a special levy of not to exceed forty cents on the one hundred dollars' valuation of all property situate in said district, to pay for the completion of the Victory high school building, and the building and construction of an addition thereto, located in said district, and the completion and construction of such other buildings, in said district, as may be deemed necessary by said board.

Sec. 2. The authority to lay such special levy shall not be exercised, however, unless ratified by a majority of the votes

3 cast by the legal qualified voters of said district for said levy,
 4 and the said board is hereby empowered and authorized to hold
 5 a special election, according to law, as provided by section one
 6 hundred and eighty-four of chapter forty-five of Barnes' code
 7 of one thousand nine hundred and twenty-three, for the pur-
 8 pose of submitting the ratification of said levy to the legal
 9 qualified voters of said district.

Sec. 3. Upon the ratification of such authority such levy
 2 shall be laid, assessed and collected as otherwise provided by
 3 law and the proceeds from the same shall be used for the pur-
 4 pose set forth in section one of this act and for none other, and
 5 shall be in addition to all other levies now authorized by law
 6 in said district.

CHAPTER 89

(Senate Bill No. 219—Mr. Coffman)

AN ACT to authorize the board of education of Clark district, in
 Harrison county, to lay a special levy for the years one thou-
 sand nine hundred and twenty-three and one thousand nine
 hundred and twenty-four, for the purpose of securing suf-
 ficient funds to complete and to construct school buildings in
 said district.

[Passed April 21, 1923. In effect from passage. Approved by the Governor
 April 26, 1923]

SEC.	1. Special levy; amount of; purpose of.	SEC.	2. Provision for referendum. 3. Application of proceeds.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Clark district, in Har-
 2 rison county, is hereby empowered and authorized, subject to
 3 ratification as hereinafter specified, in the years one thousand
 4 nine hundred and twenty-three and one thousand nine hundred
 5 and twenty-four, to lay a special levy of not to exceed twenty-
 6 five cents on the one hundred dollars' valuation of all property
 7 situate in said district to pay for the completion and the build-
 8 ing and construction of school buildings in said district.

Sec. 2. The authority to lay such special levy shall not be
 2 exercised, however, unless ratified by a majority of the vote
 3 cast by the legal qualified voters of said district for said levy,

4 and the said board is hereby empowered and authorized to hold
 5 a special election, according to law, as provided by section one
 6 hundred and eighty-four of chapter forty-five of Barnes' code
 7 of one thousand nine hundred and twenty-three, for the pur-
 8 pose of submitting the ratification of said levy to the legal quali-
 9 fied voters of said district.

Sec. 3. Upon the ratification of such authority such levy shall
 2 be laid, assessed and collected as otherwise provided by law and
 3 the proceeds from the same shall be used for the purpose set
 4 forth in section one of this act and for none other, and shall
 5 be in addition to all other levies now authorized by law in said
 6 district.

CHAPTER 90

(House Bill No. 135—Mr. Garvin of Harrison)

AN ACT to authorize the board of education of Simpson district,
 Harrison county, to call a special election for the purpose of
 approving the general school levies, in said Simpson district.

[Passed April 4, 1923. In effect ninety days from passage. Became a law
 without the approval of the Governor]

Sec. 1. Provision for referendum on special election for general school levies.	Sec. 2. When called; by whom. 3. Purposes of.
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Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Simpson district,
 2 Harrison county, West Virginia, is hereby authorized to call a
 3 special election for the purpose of submitting to the voters of
 4 said Simpson district the proposition of approving or disap-
 5 proving the general school levies for the year one thousand
 6 nine hundred and twenty-three.

Sec. 2. Such election shall be called at the discretion of
 2 said board of education and shall be held under the provisions
 3 of the general election laws governing special elections, except
 4 that no petition of voters shall be necessary to the calling of
 5 such election, and no other registration of voters, other than
 6 that of the last general election, shall be required.

Sec. 3. Such election shall be for the purposes set forth in
 2 section one of this act, and for none other.

CHAPTER 91

(Senate Bill No. 361—Mr. Reynolds)

AN ACT to provide for the establishment of a county high school for colored pupils in the county of Mineral.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the Governor April 24, 1923]

- | SEC. | SEC. |
|--|--|
| 1. Establishes high school; where; site, by whom selected; name. | 3. Board to purchase site; board may fix tuition for outside pupils. |
| 2. Board of directors, who compose; board to be body corporate; county superintendent ex officio president; secretary; duties and compensation; powers and authority of board. | 3-a. Levy; amount and purpose of; how revenues shall be collected and disbursed. |
| | 4. Members of board; compensation of same; salary of secretary. |
| | 5. Provisions for referendum. |

Be it enacted by the Legislature of West Virginia:

Section 1. A county high school for colored pupils is hereby established in the county of Mineral, in or near the city of Keyser, upon a site to be selected by the board of directors of said school, which school shall be known as the Mineral county colored high school.

Sec. 2. The presidents of the boards of education of the several school districts in Mineral county, together with the county superintendent of schools of said county, shall constitute the board of directors of said high school, which board shall be a body corporate and as such shall have and exercise all the rights and powers now conferred by law upon district boards of education. The county superintendent shall be *ex-officio* president of said board and a secretary shall be appointed by said board at its first regular meeting in each year, and his duties and compensation shall be prescribed and fixed by the board. Said board shall have full power and authority to make such rules and regulations as it may deem proper and necessary for the management and control of said high school; employ necessary teachers and fix their salaries; establish a graded course of study and grant diplomas upon graduation of pupils and perform such other duties as are essential and necessary to the welfare and maintenance of said school.

Sec. 3. As soon as practicable after the ratification of this act, said board shall acquire by purchase or gift a site for said school in a convenient and suitable location in or immediately adjacent to the city of Keyser and shall erect thereon

5 a suitable building or buildings and establish therein a high
6 school for the colored pupils of high school grade, without cost
7 for tuition to any such pupil in Mineral county, but said board
8 may, in its discretion, admit colored pupils of high school
9 grade from outside said county, upon such terms and the pay-
10 ment of such tuition fees as it may fix.

Sec. 3-a. For the purpose of securing a site, and erecting
2 and equipping suitable building or buildings thereon, said
3 board of directors is empowered to lay a levy of not more
4 than ten cents on each one hundred dollars of taxable prop-
5 erty in said county for as many years, but not to exceed three
6 in all, as may be necessary to raise sufficient funds for the
7 purpose specified above and beginning with the year in which
8 said high school is ready to open and each subsequent year
9 thereafter, a levy not to exceed five cents on each one hundred
10 dollars valuation of the taxable property in said county for a
11 maintenance building fund and ten cents for a teachers' fund.
12 Said levies shall be laid at the time and in the manner that
13 school levies are laid by district boards of education. All
14 revenue from taxation shall be collected and disbursed by the
15 sheriff of said county in the manner prescribed by general
16 law.

Sec. 4. The members of said board of directors, except the
2 county superintendent, shall be allowed a compensation of five
3 dollars per day for the services for the time they are actually
4 employed in transacting the business of said high school, which
5 shall not exceed twenty days for the year following the rati-
6 fication of this act, nor exceed ten days for any subsequent
7 year. The salary of the secretary shall be fixed by said board
8 at a sum not to exceed seventy-five dollars per year. Said
9 per diem and salary shall be paid out of the maintenance fund.

Sec. 5. Before this act shall be in effect, it shall be sub-
2 mitted to the voters of Mineral county, at the first general
3 election held following its passage and must receive a ma-
4 jority of the votes cast upon the question. The ballot com-
5 missioners of said county shall provide a separate ballot having
6 thereon the words "For county colored high school" and
7 "Against county colored high school," and said election shall
8 be conducted and the result ascertained and declared in the
9 manner provided by law for general elections.

CHAPTER 92

(Senate Bill No. 365—Mr. Henshaw)

AN ACT to amend and re-enact section eleven of chapter two hundred and sixteen of the acts of the legislature of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, relating to the independent school district of Martinsburg.

[Passed April 17, 1923. In effect from passage. Approved by the Governor April 24, 1923]

SEC.
11. Board of education; powers and duties.

Be it enacted by the Legislature of West Virginia:

That section eleven of chapter two hundred and sixteen of the acts of the legislature of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, relating to the independent school district of Martinsburg be amended and re-enacted so as to read as follows:

Section 11. It shall be the duty of the board of education 2 annually in the month of July, to determine as nearly as practicable the amount of money necessary, in addition to all other 3 available funds, to continue the schools of the district for a 4 period of not less than nine months, and for all other purposes 5 relating to the schools of the district, such as the repairing and 6 improvement of school premises, the purchase of sites and the 7 building of school houses, the payment of debts previously contracted, which may fall due within the year, and said board 8 shall cause the amount to be assessed on all the taxable property 9 of the district, subject to state and county taxes; *provided*, that 10 not more than six and one-half mills on the dollar valuation of 11 said taxable property shall be assessed in any one year for the 12 purpose of continuing the schools for said period of not less 13 than nine months, and for ordinary repairs and incidental expenses, and not more than four mills on the dollars valuation 14 for the purchase of sites, the building of houses and permanent 15 improvements.

CHAPTER 93

(House Bill No. 39—Mr. Phares)

AN ACT to amend and re-enact section eight, chapter twenty-one of the acts of the legislature of one thousand eight hundred and ninety-three, as amended by chapter sixty-nine of the acts of one thousand nine hundred and eleven, relating to the independent school district of Elkins.

[Passed April 16, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.
8. Board of education empowered to borrow money and issue bonds; provisions for referendum.

Be it enacted by the Legislature of West Virginia:

That section eight of chapter twenty-one of the acts of one thousand eight hundred and ninety-three as amended by chapter sixty-nine of the acts of one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted to read as follows:

Section 8. And the board of education of the independent 2 school district of Elkins be and is authorized and is hereby em- 3 powered to borrow money and issue therefor bonds for the pur- 4 pose of erecting, completing and furnishing a public school 5 building or buildings for the use of said independent school dis- 6 trict. Said bonds shall draw no greater rate of interest than six 7 per centum per annum, and shall be payable as now provided 8 by the general school law; except as hereinafter provided; *pro-* 9 *vided*, that such indebtedness shall not exceed, including exist- 10 ing indebtedness, in the aggregate, five per centum of the taxa- 11 ble property in said independent school district of Elkins, to 12 be ascertained by the last assessment made for state and county 13 taxes next before the incurring of said indebtedness, nor with- 14 out at the same time providing for the collection of a direct tax 15 sufficient to pay annually the interest on such indebtedness and 16 the principal thereof within not exceeding thirty-four years; 17 *provided, further*, that no debt shall be contracted under this 18 act unless all questions connected therewith shall have been 19 first submitted in the manner prescribed by law to the voters 20 of said independent district at an election to be held for that 21 purpose at such time as may be fixed by the board of education 22 and have received three-fifths of all the votes cast for and 23 against the same, and in all other respects the issue of said 24 bonds shall conform to the general school law.

CHAPTER 94

(House Bill No. 47—Mr. King)

AN ACT to amend and re-enact section one, chapter forty-eight, acts of the regular session of the legislature of West Virginia of one thousand nine hundred and twenty-one relating to the establishing and governing a county high school in Nicholas county.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1. Nicholas County High School established; Board of Directors created; powers and duties.

Be it enacted by the Legislature of West Virginia:

That section one of chapter forty-eight of the acts of the regular session of the legislature of West Virginia of one thousand nine hundred and twenty-one be amended and re-enacted so as to read as follows:

Section 1. That a high school be and the same is hereby
2 established in the county of Nicholas, state of West Virginia,
3 in or near the town of Summersville, which shall be known as
4 the Nicholas county high school, the site of which is to be
5 selected by the board of directors of said school, which said
6 board of directors shall consist of five members as follows:
7 Three elective members to be elected by the legal voters
8 of said county outside of the independent district of Rich-
9 wood at the general election to be held on the Tuesday after
10 the first Monday in November, nineteen hundred and twenty-
11 four, one of whom shall be elected for the term of two years,
12 one of whom shall be elected for the term of four years, and
13 one of whom shall be elected for the term of six years, no
14 two of whom shall be elected or eligible to serve from the same
15 magisterial district, and whose respective terms shall begin on
16 the first day of July, nineteen hundred and twenty-five, and
17 after the election of the three members of the said board of
18 directors as herein provided one director shall be elected every
19 two years thereafter at the general election to be held in No-
20 vember of each even numbered year, for the term of six years
21 to succeed the member of said board whose term of office will
22 expire on the thirtieth day of June of the year next follow-
23 ing. No person shall be eligible to membership on said elective

24 board of directors unless he or she be an actual and *bona*
25 *fide* resident and taxpayer of said county of Nicholas; neither
26 shall any person be eligible to membership on said board un-
27 less he or she be a person of good moral character and unless
28 he or she has had experience in school work, business training
29 or experience sufficient to qualify such person to perform his
30 or her duties as such director. In the event of any
31 vacancy occurring on said board, among the elective
32 members thereof, by death, removal from the county
33 or removal of any elective member from one magisterial dis-
34 trict into another magisterial district in which another elective
35 member of said board may reside or from any other cause,
36 said vacancy shall be filled by the other elective members of
37 said board and the county superintendent of schools of said
38 county to hold his or her office until the next general elec-
40 tion. In addition to the three elective members of said board,
41 the county superintendent of said county shall be ex officio
42 a member of said board of directors, and there shall be one
43 appointive member of said board whose term of office will
44 expire on the thirtieth day of June, one thousand nine hun-
45 dred and twenty-five, and whose successor shall be appointed
46 by the state superintendent of free schools of this state for
47 a term of four years beginning on the first day of July, one
48 thousand nine hundred and twenty-five and every four years
49 thereafter, which said member shall be an actual and *bona*
50 *fide* resident and taxpayer of said county, and shall in the
51 opinion of the state superintendent of free schools be a person
52 properly trained and equipped for the discharge of his duties
53 as such director. The said board of directors shall elect one
54 of their elective members president of the board and shall ap-
55 point a secretary who is not a member of said board and who
56 shall have no vote in their proceedings. Said board shall hold its
57 meetings at the principal's office in the high school building
58 on the first Saturday of each month during the school term
59 and at such other times as may be deemed necessary by any
60 three members of the board, any three members of said board
61 being hereby authorized to call a special meeting of said board
62 for the transaction of any general or special business, of
63 which meeting notice shall be given to each member of the
64 board by mailing a written copy thereof to his last known
65 postoffice address at least five days before the meeting.

CHAPTER 95

(House Bill No. 71—Mr. Aleshire)

AN ACT to amend and re-enact sections one and five of chapter thirty of the acts of one thousand nine hundred and twenty-one of the legislature of West Virginia, regular session, relating to the independent school district of Huntington.

[Passed April 17, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

SEC.

1. Limits of independent school district.	SEC. 5. Board of education; salary; duties and qualifications.
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Be it enacted by the Legislature of West Virginia:

That sections one and five of chapter thirty of the acts of one thousand nine hundred and twenty-one of the legislature of West Virginia, regular session, be amended and re-enacted so as to read as follows:

Section 1. That part of the county of Cabell comprised within the limits fixed and described by section two of chapter eleven (Huntington charter) of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, shall constitute, be and remain an independent school district.

Sec. 5. Each member of the board of education shall receive for his services as such member the sum of fifty dollars per month. Before entering upon the discharge of the duties of said office, each member shall make and file with the secretary of said board, an affidavit that such member will faithfully and impartially perform the duties of a member of said board during the term of office of such member of the said board to the best of the ability and judgment of said member of said board; that such member will not discharge the duties of such member of said board for the pecuniary or other gain or advantage of such member; nor for the purposes, or with the aim in view, of benefiting any political party; that such member will not be, or become interested pecuniarily, directly or indirectly, in any contract which may at any time be awarded by said board and that such member will not directly or indirectly receive any gift, emolument or reward for the vote or influence of such member in the purchase of books or supplies for the schools of said district; nor in the award of any contract by

19 said board. No person shall be eligible to hold the office of
20 member of said board who is not at the time of the election or
21 appointment of such person, a qualified voter in said city.

CHAPTER 96

(House Bill No. 75—Mr. Sutton)

AN ACT authorizing the board of education of the town of Sutton, in the independent school district of the town of Sutton, county of Braxton, to issue bonds for the purpose of purchasing such ground as may be necessary for the erection of a high school building, and for the purpose of erecting such building and equipping the same, and adding to or repairing the public school building in said district.

[Passed March 26, 1923. In effect from passage. Became a law without approval of the Governor]

<p>SEC. 1. Board of education authorized to issue bonds; purpose and amount of.</p>	<p>SEC. 2. Denomination of bonds; when payable; etc. 3. Provisions for referendum; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of the town of Sutton, 2 in the independent school district of the town of Sutton, county 3 of Braxton, be, and it is hereby authorized and empowered to 4 issue the bonds of said school district to an amount sufficient for 5 the purposes of purchasing such lot or land as may be necessary 6 for the erection of a suitable high school building within said 7 district, the erection of such building and equipping the same 8 and adding to and repairing the public school building hereto- 9 fore erected within said school district.

Sec. 2. Said bonds shall be of such denomination as said 2 board of education may by order prescribe, and shall be payable 3 not less than five years nor more than thirty-four years, at 4 the option of the said board of education, and shall bear interest 5 at the rate of not to exceed six per cent per annum, payable 6 annually; *provided*, that the aggregate of said bonds for said 7 purpose including existing indebtedness of said district, shall 8 not exceed five per centum of the value of all the taxable prop- 9 erty in said district to be ascertained by the last assessment for

10 state and county purposes next before the incurring of said in-
11 debtedness; and the said board of education shall provide by
12 levy a direct annual tax sufficient to pay annually the interest
13 on such indebtedness and the principal thereof when due.

Sec. 3. But no such bonds shall be issued under this act un-
2 til and unless the question of issuing the same shall have first
3 been submitted to the voters of said school district, at an election
4 to be held for that purpose, and shall have received three-
5 fifths of all votes cast at said election; and said election shall be
6 conducted under the supervision of said board of education,
7 and the result thereof ascertained and certified by said board;
8 for the purpose of holding said election, said board shall ap-
9 point three qualified voters to act as commissioners of elec-
10 tion, and two qualified voters to act as poll clerks and said elec-
11 tion shall be held at the court house in the town of Sutton,
12 Braxton county, West Virginia, and all qualified voters within
13 said independent school district shall be entitled to vote upon
14 question at said election at said place. The registration of
15 voters taken for the general election in November, one thousand
16 nine hundred and twenty-two, shall be taken and accepted as a
17 proper registration of the voters entitled to vote at said elec-
18 tion, after the secretary of the said board of education has re-
19 vised the said list and stricken therefrom the names of all per-
20 sons who have died or removed from said district since said list
21 was made up, and have added thereto the names of all such
22 persons who may have become entitled to vote in said district
23 since said list was made up. A notice of said election, setting
24 out therein the order of the board of education submitting the
25 question of the issuance of said bonds, duly published in two
26 newspapers of general circulation in said district, once a week
27 for two weeks prior to said election, shall be sufficient notice
28 and publication thereof. Said board of education is directed
29 and authorized to do any and all acts in respect to the holding
30 of said election and the issuance of said bonds that may be
31 necessary to carry into effect the purpose of this act.

32 All acts and parts of acts in conflict herewith are hereby re-
33 pealed.

CHAPTER 97

(House Bill No. 134—Mr. Stephenson)

AN ACT to amend and re-enact section one of chapter twenty-five of the acts of the legislature of one thousand nine hundred and eleven, as last amended and re-enacted by section one of chapter twenty-five of the acts of the legislature of one thousand nine hundred and twenty-one, relating to the establishing of a high school in Clay county.

[Passed April 16, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1. High school established near town of Henry; how board is	constituted; vacancies; how filled; acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That section one of chapter twenty-five of the acts of the legislature of one thousand nine hundred and eleven, as last amended and re-enacted by section one of chapter twenty-five of the acts of one thousand nine hundred and twenty-one, relating to the establishing of a high school in Clay county, be amended and re-enacted so as to read as follows:

Section 1. That a high school be and the same is hereby established in the county of Clay, state of West Virginia, in or near the town of Henry, in said county, which shall be known as the Clay County High School, the site for which is to be selected by the board of directors of said school, which said board of directors shall, after July first, one thousand nine hundred and twenty-three, consist of three members, as follows: the present elective member, whose term expires on the first day of July, one thousand nine hundred and twenty-five, and whose successor shall be elected at the general election in the year one thousand nine hundred and twenty-four, and every four years thereafter, and whose term of office shall commence on the first day of July, one thousand nine hundred and twenty-five, and continue for four years and until his successor is elected and qualified; the county superintendent of schools of said county shall be ex-officio a member and president of said board of directors; the other member of said board of directors shall be appointed by the state superintendent of free schools of this state for a term of four years, beginning on the first day of July, one thousand nine hundred and twenty-three, and every four years thereafter, which said member

21 shall be a resident and taxpayer of said county, and must have
22 had at least three years experience as a teacher in the schools
23 of said state.

24 In case of a vacancy caused by the death, resignation or
25 otherwise of the said elective member of the board of directors,
26 said vacancy shall be filled by the other members of said board
27 of directors.

28 All acts or parts of acts inconsistent herewith are hereby
29 repealed.

CHAPTER 98

(House Bill No. 199—Mr. Bruns)

AN ACT to amend and re-enact chapter one hundred and forty three of the acts of one thousand eight hundred and seventy-two, establishing the independent school district of Ceredo, in the county of Wayne, and to amend and re-enact chapter one of the acts of the legislature of West Virginia, session of one thousand eight hundred and ninety-nine, and to change the name of said district.

[Passed April 12, 1923. In effect from passage. Approved by the Governor May 1, 1923]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Independent School District of Ceredo. Territory included in same. 2. Elect two commissioners. When term shall begin, when term expire, and when elected. Commissioners to become Board of Education. 3. Commissioners to qualify; form of oath; secretary to administer oath, vacancy how filled; secretary to vote in case of tie. 4. When Board shall meet; elect president; secretary to enter into bond. 5. Duties of President. 6. Secretary to keep record of proceedings; how removed; secretary to report to county superintendent; salary of secretary; statement to be published. 7. Board of education shall hold stated meetings. 8. Board of education shall be a body corporate in law. 9. Enumeration to be taken. 10. State superintendent to report to auditor; superintendent to draw requisition on auditor. | <p>SEC.</p> <ol style="list-style-type: none"> 11. Board to furnish all equipments for school. 12. Board to lay levy to pay expenses. 13. Board shall not incur expense to exceed available funds. 14. Sheriff to make settlement with board. 15. Board to establish graded schools, and high schools; board to select text books, high school open to all pupils in district. 16. Teachers subject to rules of board; how removed. 17. Admission of various schools, subject to rules of board. 18. School property exempt from taxation. 19. Qualification of superintendent, his duties, how elected, how removed. 20. Board to fix salaries of teachers. 21. Emergency certificates how granted. 22. When general school law is void. 23. Independent school district of Ceredo-Kenova to assume all indebtedness. 24. Qualifications required of principals and teachers. |
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Be it enacted by the Legislature of West Virginia:

That chapter one hundred and forty-three of the acts of one thousand eight hundred and seventy-two, establishing the independent school district of Ceredo, in the county of Wayne, as amended and re-enacted in chapter one of the acts of the legislature of West Virginia, session of one thousand eight hundred and ninety-nine, be amended and re-enacted to read as follows:

Section 1. The incorporated town of Ceredo, and the city of 2 Kenova and all the territory included in and known as the in- 3 dependent school district of Ceredo, in the county of Wayne, 4 commencing at the mouth of Twelve Pole and following the Ohio 5 river to the mouth of the Big Sandy river, thence up the Big 6 Sandy river to the upper line of the Little farm, east with the 7 ridge, south of the waters of Twelve Pole, to the head of Hickory 8 branch, and down said branch to its mouth, thence down Twelve 9 Pole to the place of beginning, shall constitute an independent 10 district, to be known as the "Independent school district of 11 Ceredo-Kenova."

Sec. 2. There shall be elected by the voters of said 2 district at a special election on the second Tuesday 3 in June, one thousand nine hundred and twenty-three 4 and in the manner prescribed by the general school law 5 for the election of school officers, two commissioners, whose 6 terms shall expire on April one, one thousand nine hundred and 7 twenty-seven, and April one, one thousand nine hundred and 8 twenty-eight, respectively, the ballot designating the term of 9 service of each member and which shall begin on the first day of 10 July following their election, and every year thereafter on the 11 third Saturday in March there shall be elected one commis- 12 sioner whose term of office shall commence on the first day 13 of April following his election and continue five years and until 14 his successor is elected and qualified; who together with the 15 present commissioners of the Independent school district of 16 Ceredo shall constitute the "board of education of the inde- 17 pendent school district of Ceredo-Kenova."

Sec. 3. Before entering upon their duties as school officers, 2 each of said commissioners shall be required to qualify by tak- 3 ing and subscribing to the following oath: "I, A....., 4 B....., do solemnly swear, (or affirm), that I will faith- 5 fully perform the duties of commissioner of the board of Edu- 6 cation of the Independent school district of Ceredo-Kenova,

6-a during the term for which I was elected, to the best of my ability, according to law, so help me God". The secretary of the board of education is authorized to administer said oath, a copy of which shall be kept by him upon the files of his office. Any vacancy that might occur in the office of school commissioner by death, resignation, refusal to serve, or otherwise, shall be filled by the board of education of the district, at their first regular meeting thereafter, by the appointment of a suitable person, who shall hold his office until the next election of school commissioners, when a commissioner shall be elected for the unexpired term. The secretary shall have a vote in case of a tie vote, except that in case of a tie vote for commissioner to fill a vacancy, the tie vote shall be settled by lot.

Sec. 4. The board shall meet annually, within thirty days after the third Saturday in March, at such time and place as they may designate, and shall elect one of their members president, and shall also elect a secretary who shall serve during the will of the board. Before entering upon the duties of his office, the secretary shall, with at least two good securities to be approved by the board of Education enter into a bond, payable to the board of education of the independent school district of Ceredo-Kenova, in such penal sum as the board may determine, which bond shall be filed with the president of the board for safe keeping.

Sec. 5. The president shall perform such duties as usually devolve upon the presiding officer of a deliberative body, except that he shall have a vote upon each and every question as any other commissioner, but he shall have but one vote upon any one question. In his absence, the board may choose a president pro tempore from among their number.

Sec. 6. The secretary shall record in a book, provided for the purpose, all the official acts and proceedings of the board, which shall be a public record, open to the inspection of all persons interested therein. He shall preserve in his office at the high school building, all papers containing evidence of title, contracts, and obligations; and in general shall record and keep on file in his office all such papers and documents as may be required by any of the provisions of this act, or by any order of the board of education. He may be removed by the board of education of the independent school district of Ceredo-Kenova at any regular or special meeting. Any

10 vacancy in the office, shall be filled by the board for the unex-
11 pired term. All levies for any purpose shall be laid in accord-
12 ance with the general school law. After the board of education
13 has laid the levy for the building fund and the teachers fund
14 or funds, it shall be the duty of the secretary to report the rate
15 thereof to the county superintendent and the county assessor.
16 He shall also report to the county superintendent and other
17 county and state officials such facts in his possession as may be
18 required by the general school law of the state. For his ser-
19 vices, he may receive such compensation, not exceeding six hun-
20 dred dollars per annum, as the board may allow. In his absence,
21 the board may appoint a secretary pro tempore. At the close of
22 each school year, the secretary shall cause to be published in a
23 newspaper of general circulation in the district in two successive
24 issues, a statement of all receipts and expenditures of the school
25 year.

Sec. 7. The board of education of the independent school dis-
2 trict of Ceredo-Kenova, shall hold stated meetings at such time
3 and places as they may appoint, not less than a majority of the
4 members being required to constitute a quorum for the trans-
5 action of business. Special meetings may be called by the presi-
6 dent, or at the request of any two members, by the secretary.
7 The concurrence of a majority of the board shall be required to
8 elect a superintendent or teachers, and to decide all questions in-
9 volving the expenditure of money.

Sec. 8. The board of education of the independent school dis-
2 trict of Ceredo-Kenova, shall be a body corporate in law; and as
3 such may purchase, hold, sell or convey real or personal prop-
4 erty for the purpose of education within the district; may be-
5 come a party to suits and contracts and do other corporate acts.
6 They shall have the management of, and be vested with the title
7 to all real and personal property, for the use of the public
8 schools within the district; and shall manage and dispose of
9 the same as will, in their opinion, best subserve the interests of
10 the district. The board of education shall have power to make
11 all necessary rules and regulations for the government of the
12 schools of the district, for the admission of pupils therein, for
13 the exclusion of pupils whose attendance would be dangerous
14 to the health or detrimental to the morals or discipline of the
15 schools. They may perform such other duties as are permitted
16 by the general school law of the state.

Sec. 9. Annually, on or before April first, the board of education shall cause to be taken an enumeration of all the youth of the district, noting age and color, according to the general school law. The secretary shall report to the county superintendent the result of said enumeration of youth, at such time as may be required by law.

Sec. 10. The state superintendent of schools in his report to the auditor, shall specify separately the result of the enumeration of youth in the independent school district of Ceredo-Kenova, and the rest of Wayne county, and the auditor in apportioning money for school purposes, shall apportion to the independent school district of Ceredo-Kenova and to the rest of Wayne county separately, according to their respective numbers of youth, as shown by the list furnished by the state superintendent of schools, and the said superintendent shall draw his requisition upon the auditor in favor of the sheriff of Wayne county for such amount as the district is entitled to receive, and at the same time notify the secretary of the board of education of the amount.

Sec. 11. It shall be the duty of the said 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 said school houses with fuel and other things necessary for their comfort and convenience.

Sec. 12. For the purpose mentioned in any of the preceding sections, and for the purpose of paying teachers and other school officers, the interest and sinking funds on bonds, or any other legal obligations, which the board of education of the independent school district of Ceredo now owes, or may hereafter be incurred by the independent school district of Ceredo-Kenova the said board shall annually lay such levies, in such manner as is provided by the general school law of the state. Elections for bond issues shall likewise be conducted in accordance with the general school law.

Sec. 13. The levies made under the provisions of this act shall be collected and disbursed as now provided by law. The board of education shall not, during any one year, incur any expense that shall exceed the amount of available funds received for school purposes during that year.

Sec. 14. The sheriff shall annually, at such time and in such manner as required by law, make settlement with the board of education and for collecting and disbursing the taxes, levied by the board of education, he shall be entitled to such fees as are now provided by the general law.

Sec. 15. The said board of education shall have power to establish within the district, such graded schools, including high schools, of such grade, as may, in their judgment, be best for the interests of the district. The branches and text books to be taught in the high schools and other schools within the district shall be determined by the superintendent, with the approval of the board of education. The said high schools shall be open to all pupils in the district, but no pupil shall be entitled to admittance to said high schools until the superintendent shall have been satisfied that the pupil shall have made due proficiency in the branches taught in the other schools of the district.

Sec. 16. Teachers shall be subject, in all respects, to the rules and regulations adopted by the board of education, and they may be removed by the board for incompetency, immoral conduct, or wilful violation of the rules of the board, upon complaint of the superintendent or any member of the board.

Sec. 17. Admission to the various schools of the district shall be gratuitous to all white children, wards, and apprentices, or actual residents within the district, between the ages of six and twenty-one years; *provided*, that admission of pupils, residents of one sub-district to the schools of another sub-district shall rest with the board of education. Non-residents of the district may be allowed to attend the schools upon payment in advance of such tuition as the board of education may determine. The board of education shall establish within the district one or more separate schools for colored children, when the whole number by enumeration equals that number required by the state school law, so as to afford them as far as practicable, the advantages and privileges of a free school education. All such schools shall be under the management and control of the board, and shall be subject to like general regulations as the other schools of the district; but under no circumstances shall colored children be allowed to attend the same school, or be classified with white children.

Sec. 18. All school houses, school house sites, and other
2 property for the use of public schools of the district, shall be
3 exempt from taxation; and also from sale on execution or other
4 process in the nature of an execution.

Sec. 19. A superintendent of schools for the said district
2 shall be elected by the said board of education for a term of not
3 more than two years, and his salary fixed by the said board at
4 the first regular meeting of the board after the annual school
5 election in this district, or as soon thereafter as circumstances
6 will allow, but no person shall be employed as superintendent
7 who shall not have had an experience of at least five years as
8 superintendent or principal of public schools. Said superin-
9 tendent, in addition to the duties specified in this act, shall per-
10 form such other appropriate duties with relation to the schools
11 of the district, as the board may prescribe. He shall be liable
12 to removal by the board of education for any palpable violation
13 of the law, immorality or wilful neglect of duty. But he shall not
14 be removed unless charges shall be preferred to or by a member
15 of the board, and notice of a hearing, with a copy of the charges
16 delivered to him, and an opportunity be given him to be heard
17 in his own defense. When the office shall have become vacant
18 from any cause, before the expiration of the term for which the
19 superintendent shall have been elected, the board of education
20 shall fill the same by appointment for the unexpired term. It
21 shall be the duty of the superintendent to make such report to
22 the board of education of the character and conditions of the
23 schools of the district, as shall enable the secretary to make his
24 required report to the county superintendent. The superintend-
25 ent shall not directly or indirectly receive any gift, emolument,
26 or reward for his influence in recommending the use of any
27 book, or furniture, of any kind whatever, in the schools of the
28 district.

Sec. 20. The board of education shall, in accordance with the
2 general school law, appoint all teachers for public schools of
3 any grade or high school within the district, and fix their
4 salaries; but no person shall be employed to teach in any
5 public school of the district, who shall not first have obtained
6 from the state authorities a certificate of qualifications to teach
7 a school of the grade for which the appointment is made or, in
8 lieu of said certificate, a certificate granted by an examining
9 committee hereinafter provided for.

Sec. 21. In emergency cases only, the board of education may appoint two competent persons to act with the superintendent as an examining committee to conduct examinations of new teachers. Certificates granted to such teachers shall be valid for one year.

Sec. 22. All provisions of the general school law of the state and all laws and acts heretofore existing, which are in any manner inconsistent with the provisions of this act, shall be void within the district; otherwise the said general school law shall remain in full force and effect in this district as elsewhere in the State.

Sec. 23. All school houses, school house sites and all other property of whatsoever description of the independent school district of Ceredo shall by the passage of this act and its enactment into law become the property of the independent school district of Ceredo-Kenova and all indebtedness of the independent school district of Ceredo of whatsoever description, including bond issues of the independent school district of Ceredo, shall be assumed by and are hereby made the obligations of the independent school district of Ceredo-Kenova.

Sec. 24. The principal and teachers employed for the high school, shall, if practicable, have the qualifications necessary to maintain the first-class standard of said school.

CHAPTER 99

(House Bill No. 237—Mrs. Gates)

AN ACT to amend and re-enact section six of chapter seventy-four of the acts of the legislature of one thousand nine hundred and eleven, relating to Charleston independent school district, as amended by chapter seventy-three of the acts of the legislature of one thousand nine hundred and seventeen.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

<p>Sec. 6. Board of education to lay levy for purchase, maintenance and</p>	<p>support of public library; amount of; bequests, etc.</p>
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Be it enacted by the Legislature of West Virginia:

That section six of chapter seventy-four of the acts of the legislature of one thousand nine hundred and eleven, relating to Charleston independent school district, as heretofore amended by

chapter seventy-three of the acts of the legislature of one thousand nine hundred and seventeen be, and the same is hereby amended and re-enacted so as to read as follows:

Section 6. That said board of education is authorized to 2 establish, support and maintain in said district a public library 3 and branches thereof; to purchase, acquire by condemnation in 4 the manner provided in chapter forty-two of the code of West 5 Virginia or otherwise acquire such real estate as may be neces- 6 sary or proper in connection therewith; and to construct, pur- 7 chase, lease, or otherwise acquire one or more library buildings, 8 and to furnish, equip and maintain the same. For the pur- 9 poses aforesaid it may levy annually for the years one thou- 10 sand nine hundred and twenty-three, one thousand nine hun- 11 dred and twenty-four, one thousand nine hundred and twenty- 12 five, and one thousand nine hundred and twenty-six a tax not 13 to exceed five cents for each one hundred dollars' valuation 14 of property, and for the year one thousand nine hundred and 15 twenty-seven, and each year thereafter, it may levy a tax not to 16 exceed three cents for each one hundred dollars' valuation 17 of property for the support, maintenance and enlargement of 18 said library building or buildings. And said board of education 19 is further authorized to accept, receive, and use gifts, devises 20 and bequests for any or all of the purposes aforesaid.

CHAPTER 100

(House Bill No. 294—Mr. Read)

AN ACT to amend and re-enact sections five and fourteen of chapter forty-three of the acts of one thousand nine hundred and twenty-one, entitled, "an act creating the independent school district of Hinton, in the county of Summers."

[Passed April 11, 1923. In effect ninety days from passage. Approved by the Governor April 25, 1923.]

SEC.
5. Hinton Independent School District; election of commissioners; qualifications; terms of office; how determined; board to be non-partisan; number of candidates.

SEC.
14. Board of Education; duty to make estimate and lay levies; minimum term; eight months in graded and elementary schools; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That section five and section fourteen of chapter forty-three of the acts of one thousand nine hundred and twenty-one, regular session, of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

Election of Commissioners.

Section 5. There shall be elected by the qualified voters of 2 the independent school district of Hinton at an election to be 3 held in the said district on the second Tuesday of December, 4 one thousand nine hundred and twenty-two, four school com- 5 missioners, or members of the board of education of said dis- 6 trict, two members of the said board of education shall be elected 7 for a term of two years, and two members of said board of edu- 8 cation for a term of four years; the two persons of opposite 9 politics receiving the highest number of votes for school com- 10 missioner at the said election shall be declared elected for the 11 full term of four years, and the two persons of opposite poli- 12 tics receiving the next highest number of votes for said office 13 at said election shall be declared elected for the short term of 14 two years; and biennially thereafter, at each general election 15 to be held on the first Tuesday after the first Monday of Novem- 16 ber, in the said independent district, there shall be elected by 17 the qualified voters of the said independent district two school 18 commissioners, or members of the board of education for a full 19 term of four years. The term of office shall commence on the 20 first day of July, next after their election, and they shall hold 21 their said office for a term of four years and until their suc- 22 cessors have been elected and qualified.

23 *Provided*, that after the first election of the said board of 24 education as herein provided for, not more than one person 25 whose name appears on the ticket of any party being voted for 26 at an election for member of the said board of education, shall 27 be elected to office. The two candidates of opposite politics re- 28 ceiving the greatest number of votes shall be declared elected. 29 it being the intention of this act to make and keep the said board 30 of education non-partisan, and that no political party at any 31 time, shall have on said board of education more than one-half 32 of the members to be elected thereto.

Board of Education; Duty to Make Estimates and Lay Levies.

Sec. 14. It shall be the duty of the board of education of the independent district of Hinton, in the county of Summers, annually, at the same time and in the same manner now provided, or that may hereafter be provided by the general school law of this state, for the ascertaining and making of estimates and the fixing and laying of school levies by the boards of education of the various school districts within the state for the support of the free schools therein, to ascertain and to make such estimates of the amounts necessary for the support of the schools within the said independent district, to determine, fix and lay such levies on the property located within said independent district, for the support of the schools therein. It shall be the duty of the board of education of the said independent district of Hinton, annually, at such meeting to levy as many cents on each one hundred dollars of valuation of taxable property of the district, according to the last assessment thereof, as will produce the amount shown by the estimate of said board to be necessary to be levied for the building fund purposes, and levy in like manner the amount necessary, after deducting the sum receivable from the general school fund of the state for teachers' purposes, to continue the schools in session in said independent district for a minimum term of eight months in the graded or elementary schools, and for a minimum term of nine months in the junior and senior high schools; and to levy and provide sufficient funds for all purposes to keep said schools in session for the full minimum term as herein provided; and the board of education of said independent district is hereby authorized and empowered to lay a levy in addition to the levies authorized by the general school law of the state, sufficient for all purposes to conduct the schools of said independent district for the term fixed.

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

CHAPTER 101

(House Bill No. 313—Mr. Honaker)

AN ACT to create the independent school district of Nitro in the counties of Putnam and Kanawha.

[Passed April 27, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.	SEC.
1. Independent school district of Nitro created.	District of Nitro;" Duties, powers.
2. Territorial limits of part in Kanawha county.	12. Meetings; appointment of secretary, duties.
3. Territorial limits of part in Putnam county.	13. Salaries of members of board.
4. Board of education consisting of five commissioners.	14. Stated meetings; special meetings, how called.
5. First board appointed by state superintendent upon approval of Governor; not more than three from one political party; term of office to begin July 1.	15. Board to make estimates and lay levies.
6. Board of education to be elected at next general election; three for two years, two for four years.	16. Other duties of board.
7. Elections held under authority of board of education, in accordance with general laws.	17. Powers of board.
8. Nominations, how made.	18. Schools for negroes.
9. Certification of name of nominee.	19. Teachers and principals appointed by board.
10. Vacancies, how filled.	20. Election of superintendent; vacancies, how filled.
11. Board styled; "The Board of Education of the Independent	21. Promotion of pupils; non-residents.
	22. Damage to school property.
	23. Conflicting acts repealed.
	24. Effectiveness of act contingent upon favorable vote at election to be held second Tuesday in June; form of ballot.
	25. Declaring result of election.

Be it enacted by the Legislature of West Virginia:

Section 1. That in the event of a majority of votes cast at the election or elections hereinafter provided, the territory included within the boundaries described in sections two and three of this act, or either of them, as herein provided, shall constitute and is hereby created and made an independent school district, which shall be known as the "Independent school district of Nitro."

Sec. 2. The territorial limits of the independent school district of Nitro in the county of Kanawha, state of West Virginia, shall begin at the southwest corner of the city of Nitro, a point on the east bank of the Kanawha River at "Pool Water" main, corner to the old Townsend farm, now known as East Nitro city; and thence running with the Townsend or East Nitro city line, north seventy-four degrees fifteen minutes east, one thousand one hundred and fifty-eight and eighty-five hundredth feet to a stone monument on west side of county road with cedar and walnut pointers; thence crossing the road and running up the hill, south eighty-seven degrees, twenty-four minutes east, eight hundred and forty-six feet to a stone monument with gum and hickory pointers near top of river ridge at

14 corner of a fence; thence along the brow of the river ridge,
15 which leads down the river, north nine degrees twenty-eight
16 minutes east, eight hundred and twenty-five feet, to a stone
17 monument in a low gap at top of the river ridge; thence run-
18 ning down a hollow of Blake's creek, south eighty-eight de-
19 grees forty-one minutes east, three thousand six hundred and
20 thirty-five and fifty hundredths feet to a stone marked "S. R."
21 at corner of fence; thence north thirty-seven degrees, thirty-
22 two minutes east, nine hundred and forty-eight and one tenth
23 feet, to a stone marked "S.R."; thence north eighty-four degrees,
24 eight minutes west, three thousand one hundred and twenty feet,
25 to a black oak on the brow of a ridge facing Blake's creek;
26 thence north two degrees nine minutes east, one thousand two
27 hundred and thirty-five feet, to a small white oak stump; thence
28 south eighty-four degrees, fifty-six minutes west, one thousand
29 thirty-four and nine tenths feet, to a stone monument on the
30 east side of county road; thence north thirteen degrees, twelve
31 minutes east, three hundred and forty-nine and one tenth feet;
32 north nineteen degrees east, one hundred and eighteen and eight
33 tenths feet; north thirty-five degrees, twenty-five minutes east,
34 two hundred and thirty and ninety-two hundredths feet; north
35 forty-four degrees, five minutes east, one hundred and seventy-
36 eight and fifty-six hundredths feet; north seventy-six degrees,
37 forty-two minutes east one hundred and thirty and sixty-five
38 hundredths feet; south sixty-nine degrees, seven minutes east,
39 two hundred and forty-nine and fifty-three hundredths feet;
40 south fifty-eight degrees, thirty minutes east, one hundred and
41 thirty-eight and ninety-seven hundredths feet; south seventy-
42 six degrees, fifteen minutes east, two hundred and twelve and
43 forty hundredths feet; south sixty-one degrees, six minutes east,
44 three hundred and sixty-nine and sixty-nine hundredths feet;
45 south fifty-two degrees, forty minutes east, ninety-six and
46 ninety-eight hundredths feet; south twenty-three degrees,
47 twenty-four minutes east, two hundred and thirty-eight and
48 forty-two hundredths feet, to a stone monument on the west
49 side of Blakes creek road; thence north eighty-five degrees,
50 eleven minutes east, thirty-three feet, to a stone monument;
51 thence south eighty-three degrees, fifteen minutes east, two
52 thousand three hundred and forty feet to a stone at corner of
53 fence at edge of woods and field; thence north ten degrees,
54 eleven minutes east, two thousand seven hundred and forty-

55 six feet to a set stone and pointers; thence north eighty-four de-
56 grees, twenty-eight minutes west, three thousand one hundred
57 and fifty-eight and seven tenths feet, to a stone monument;
58 thence north fifteen degrees, twenty minutes east, two hundred
59 and two and forty-five hundredths feet, to a stone monument;
60 thence north eighty-four degrees, twenty-eight minutes west,
61 three hundred and twenty and four tenths feet to a stone monu-
62 ment on the east side of the county road; thence along the east
63 side of said road, north twenty-one degrees, eighteen minutes
64 east, 188 feet to a stone monument and old pine pointer; thence
65 north twenty-one degrees, thirty minutes east, twenty-three
66 feet to the line between Putnam and Kanawha counties; thence
67 running with said county line, south sixty-nine degrees, nine
68 minutes east, four thousand and fifty and thirty-two hundredths
69 feet, to a point at Kanawha river edge at "Pool Water";
70 thence up the River along the water's edge to the point of be-
71 ginning; embracing an area of six hundred and sixteen and
72 fifty-two hundredths acres; that part of Nitro situate in Kana-
73 wha county, West Virginia.

Sec. 3. The territorial limits of the independent school dis-
2 trict of Nitro in the county of Putnam, state of West Virginia,
3 shall be as follows:

4 Beginning at a point on the Kanawha and Putnam county
5 line on the east side of the county road and running north
6 twenty-one degrees, thirty minutes east, four hundred and
7 ninety-one and one tenth feet, to a set stone; thence continuing
8 along east side of the road, north thirty-four degrees east, four
9 hundred and twenty-nine feet, to a stone monument, north
10 seventy-three degrees, thirty minutes east, one hundred and
11 seventeen and seventy-two hundredths feet, to a stone on north
12 side of Armours creek; thence north twenty-three degrees, forty
13 minutes east four hundred and forty-four and eleven hundredths
14 feet, to an iron pin driven in center of county road at its junc-
15 tion with the Armours creek road; thence south seventy-three
16 degrees, fifty-nine minutes east, three hundred and fifty-four
17 and five tenths feet, to a walnut corner tree; thence south eighty-
18 seven degrees, thirty minutes east, five hundred and nineteen
19 feet, south seventy-two degrees east, three hundred and sixty-
20 three feet, north eighty-one degrees, twenty minutes east, four
21 hundred feet, north seventy-two degrees twenty minutes east
22 two hundred feet, north sixty-six degrees, eleven minutes east,
23 one hundred and seventy and twenty-seven hundredths feet, to

24 a set stone; thence north twenty-two degrees forty-one minutes
25 east, one thousand two hundred and seventeen feet, to a stone
26 and three white oak pointers; thence north sixty-two degrees,
27 twenty minutes east, two thousand and twenty and seven tenths
28 feet, to a set stone; thence north nineteen degrees, eleven min-
29 utes east, one hundred and seventy-six and seventy-eight hun-
30 dredths feet to a large stone boulder; thence along and cross-
31 ing county road to the east side, north thirty-four degrees forty-
32 one minutes east, seven hundred and ninety-two feet, to a stone
33 monument set in an old poplar stump; thence north twenty-one
34 degrees, thirty-three minutes east, one hundred and fifty and
35 twenty-five hundredths feet to a stone monument; thence north
36 thirteen degrees, thirty minutes east, seventy-three and ninety-
37 two hundredths feet to a point in road; thence along old road,
38 north thirty-nine degrees, fifty-one minutes east, two hundred
39 and nine and five tenths feet, north thirty-one degrees, twenty
40 six minutes east, one hundred and sixty-nine and five tenths
41 feet, north fifty degrees, forty minutes east, one hundred and
42 ninety-eight and twelve hundredths feet, to a stone on west side
43 of county road; thence along west side of road, north forty-
44 eight degrees, forty minutes east, two hundred and thirty-four
45 feet; thence north twenty-nine degrees, ten minutes east three
46 hundred and sixty feet; north thirty-nine degrees, forty min-
47 utes east, ninety-eight and sixteen hundredths feet to a stone;
48 thence north forty seven degrees, fifteen minutes east, one hun-
49 dred feet; north thirty-seven degrees, fifteen minutes east,
50 ninety-three and seven tenths feet; north fifty-one degrees,
51 fifteen minutes east, four hundred and fourteen and five tenths
52 feet; north seventy-four degrees, fifteen minutes east, ninety-
53 nine and three tenths feet; north fifty-seven degrees, forty-five
54 minutes east, six hundred feet; north twenty-five degrees, forty-
55 five minutes east, one hundred and seventy-five feet; north fifty-
56 nine degrees forty-five minutes east, three hundred and ninety
57 feet; north sixty-three degrees forty-five minutes east three
58 hundred feet; north sixty-eight degrees, fifteen minutes east,
59 three hundred and fifty-eight and seventy-one hundredths feet;
60 north fifty-two degrees, fifteen minutes east two hundred and
61 fifty-one and five tenths feet; north sixty-nine degrees, fifty-
62 two minutes east, nine hundred and twenty-one and eighty-
63 seven hundredths feet; north nine degrees, forty-five minutes
64 east, two hundred and forty-seven and seventeen hundredths
65 feet to a stone on west side of Charleston and Point Pleasant

66 pike; north seventeen degrees ten minutes east, one hundred
67 and forty-two and forty hundredths feet; north eleven degrees,
68 eight minutes east, five hundred and twenty-seven and seventy-
69 one hundredths feet; north twelve degrees, fifty-four minutes
70 east, two hundred and twenty-eight and ninety-eight hun-
71 dredths feet; north thirty degrees, thirty minutes east, three
72 hundred and sixteen and seven tenths feet; north twenty-nine
73 degrees, eighteen minutes east, one thousand one hundred and
74 fifty-four and twenty-four hundredths feet; north twelve de-
75 grees, forty-two minutes east, one hundred and sixty-five and
76 forty-five hundredths feet to a stone monument north seventy-
77 six degrees, fifty-eight minutes west, one thousand two hundred
78 and six and twenty-nine hundredths feet to a stone, north seven-
79 teen degrees, thirty minutes west, two hundred and twenty-
80 two feet, north three degrees east, four hundred and thirty-
81 three and forty-nine hundredths feet to a stone monument;
82 south thirty degrees, forty-five minutes west, one hundred feet;
83 south thirty-two degrees twelve minutes west, one hundred
84 feet; south thirty-three degrees thirty-nine minutes west, one
85 hundred feet; south thirty-four degrees fifty-nine minutes west,
86 ninety-seven and sixty-four hundredths feet; south thirty-five
87 degrees eight minutes west, one hundred feet; south thirty-six
88 degrees thirty-three minutes west, one hundred feet; south
89 thirty-sven degrees thirty-eight minutes west sixty-six and two
90 tenths feet; south thirty-eight degrees, thirty-six minutes west
91 one hundred feet; south forty degrees one minute west, one
92 hundred feet; south forty-one degrees twenty-three minutes
93 west, one hundred feet; south forty-two degrees, twenty-three
94 minutes west, one hundred feet; south forty-three degrees
95 twenty-three minutes west, one hundred feet; south forty-four
96 degrees twenty-three minutes west, one hundred feet; south
97 forty-five degrees twenty-three minutes west, one hundred feet;
98 south forty-six degrees twenty-three minutes west, one hundred
99 feet; south forty-seven degrees twenty-three minutes west, one
100 hundred feet; south forty-eight degrees twenty-three minutes
101 west one hundred feet; south forty-nine degrees twenty-three
102 west, one hundred feet; south fifty degrees twenty-three minutes
103 west, seventy-five feet; south fifty-one degrees, five minutes west,
104 seven hundred and eighty-one feet; south thirty-eight degrees
105 fifty-five minutes east, thirty feet; south fifty-one degrees, five
106 minutes west, two hundred and thirty-six and fifty-eight hun-
107 dredths feet; north two degrees east, one hundred and five and

108 fifty-three hundredths feet; north eighty-seven degrees west,
109 three hundred and twenty-eight and five tenths feet, to a stone
110 monument; north nineteen degrees west, one hundred and sixty-
111 five feet, to a stone on top of river bank; north forty-six de-
112 grees thirty minutes east, three hundred and thirty feet to a
113 stone at the mouth of Armours creek; thence up the Kanawha
114 river, along the water line, south fifty-four degrees forty-five
115 minutes west, one hundred and seventy feet; south forty-nine
116 degrees three minutes west two hundred and thirty-three feet:
117 south fifty-three degrees fifty-nine minutes west one hundred
118 and sixty feet; south forty-five degrees forty-eight minutes
119 west three hundred feet; south forty-six degrees fifty-four
120 minutes west one hundred and seventy-five and five tenths feet;
121 south forty-nine degrees twenty-eight minutes west four hun-
122 dred and thirty-six and fifty-seven hundredths feet; south fifty-
123 two degrees twenty-eight minutes west two hundred and thirty-
124 one and one tenth feet; south sixty degrees thirteen minutes
125 west, two hundred and ninety-two feet; south sixty-one de-
126 grees fifty-seven minutes west one hundred and ninety-five and
127 four tenths feet; south sixty-two degrees twenty-one minutes
128 west three hundred and twenty and seventy-five hundredths
129 feet; south sixty-five degrees fifty three minutes west four
130 hundred and forty-five and six tenths feet; south sixty two
131 degrees fifty-four minutes west six hundred and twenty-two
132 and sixty-eight hundredths feet; south sixty-two degrees fifty-
133 three minutes west four hundred and eighty-seven and five
134 tenths feet passing southwest corner of Bird tract at three hun-
135 dred and fifteen feet; south sixty-four degrees thirty-eight min-
136 utes west five hundred and forty and four tenths feet (passing
137 northwest corner of Crouch tract at two hundred and sixty-
138 two feet; south sixty five degrees thirty-two minutes west three
139 hundred and eighty-five and seven tenths feet; south fifty-nine
140 degrees twenty-eight minutes west four hundred and eighty-
141 seven $\frac{9}{10}$ feet; south fifty four degrees fifty two minutes west
142 three hundred and four and fourteen hundredths feet (pass-
143 ing southwest corner Crouch tract at ninety feet); south forty-
144 nine degrees thirty-seven minutes west two hundred and ninety-
145 six and seventy-four hundredths feet; south forty-nine degrees
146 three minutes west three hundred and twenty-six and sixty-
147 five hundredths feet; south forty-five degrees twenty minutes
148 west two hundred and thirty-one and sixty-three hundredths
149 feet; south thirty-six degrees forty-two minutes west seven hun-

150 dred and seventy-eight and forty-five hundredths feet (pass-
151 ing corner of Bailey and Bush tracts at one hundred and twelve
152 feet); south thirty-five degrees thirty-eight minutes west three
153 hundred and sixty-seven and $\frac{45}{100}$ feet (passing northwest
154 corner of Putnam Dairy company tracts at three hundred and
155 thirty and fifty-five hundredths feet); south thirty degrees
156 twenty-six minutes west four hundred and ninety-five and
157 thirty-eight hundredths feet; south twenty-four degrees thirty-
158 six minutes west two hundred and forty-two and seventy-three
159 hundredths feet; south twenty-three degrees thirty-eight min-
160 utes west one hundred and ninety-four and one tenths feet;
161 south twenty-one degrees fifty-five minutes west three hundred
162 and ninety and twelve hundredths feet; south seventeen degrees
163 two minutes west two hundred and ninety-three and three tenths
164 feet; south seventeen degrees seventeen minutes west two hun-
165 dred and thirty-eight and twenty-five hundredths feet; south
166 nineteen degrees twenty minutes west two hundred and sixty-
167 nine and sixty-five hundredths feet; south fourteen degrees
168 eleven minutes west four hundred and ninety-eight and eight
169 tenths feet; south seven degrees two minutes west two
170 hundred and ninety-two and nine tenths feet (passing corner
171 Putnam Dairy company and Boyer tracts at seventy-two feet);
172 south eleven degrees thirty minutes west three hundred and
173 sixty-two and five tenths feet; south nine degrees nine minutes
174 west four hundred and fifty-seven and eighty-three hundredths
175 feet; south forty-four minutes west six hundred and forty-six
176 and nine tenths feet (passing corner between Boyer and Curry
177 tracts at six hundred and one and nine tenths feet); south three
178 degrees two minutes west two hundred and sixteen and thirty-
179 five hundredths feet; south six degrees thirty-one minutes west
180 two hundred and eighty-four and eighteen hundredths feet;
181 south four degrees thirteen minutes west three hundred and
182 thirty-nine and eight tenths feet (passing corner between Curry
183 and Blackwood tracts at thirty-nine feet); south seven degrees
184 thirty-four minutes east eight hundred and ninety-two and
185 eighty-two hundredths feet; south ten degrees twenty-five min-
186 utes east to an intersection with the Kanawha and Putnam
187 county line, thence south sixty-nine degrees nine minutes east,
188 four hundred and fifty and thirty-two hundredths feet to the
189 point of beginning.

Sec. 4. There shall be a board of education of the said dis-
2 trict to consist of five school commissioners, who shall be elected

3 as hereinafter provided, and who shall be citizens entitled to
4 vote in the independent school district of Nitro at the election
5 at which they are elected.

Sec. 5. There shall be appointed by the state superintendent
2 of schools, by and with the consent of the governor, prior to
3 the first day of July one thousand nine hundred and twenty-
4 three, or as soon thereafter as practicable, five school commission-
5 ers or members of the board of education of said district, not
6 more than three of whom shall be members of the same political
7 party, and who shall be otherwise qualified as herein provided,
8 whose term of office shall begin on the first day of July, one
9 thousand nine hundred and twenty-three, and who shall hold
10 their respective offices until their successors are elected and quali-
11 fied as hereinafter provided.

Sec. 6. There shall be elected by the qualified voters of the
2 independent school district of Nitro at the general election held
3 in the said district in November, one thousand nine hundred and
4 twenty-four, five school commissioners or members of the board
5 of education of said district, three members of the said board of
6 education shall be elected for a term of two years and two mem-
7 bers of said board of education for a term of four years; the
8 three persons receiving the highest number of votes for school
9 commissioner at the said election shall be declared elected for the
10 full term of four years and the other two persons shall be de-
11 clared elected for the short term of two years; and each two
12 years thereafter, at the general election held in November in
13 the said independent district, there shall be elected by the qual-
14 ified voters of the said district successors to the incumbent school
15 commissioners for a full term of four years. The term of office
16 shall commence on the first day of July next after their election
17 and they shall hold their said office for a term of four years and
18 until their successors have been elected and qualified. *Provided,*
19 that at no elections shall more than three members of the same
20 political party be elected, it being the intention of this act, to
21 make and keep the said board of education bi-partisan, and that
22 no political party, at any time, shall have on said board of educa-
23 tion more than three of the members to be elected thereto.

Sec. 7. All elections of whatsoever kind held under this act
2 shall be conducted, returned and the results thereof ascertained,
3 and declared under the authority of the board of education in a
4 manner prescribed by the laws of the state relating to elections

5 insofar as they are not in conflict or inconsistent with the pro-
6 visions of this act.

Sec. 8. Candidates to be voted for at any election for members
2 of said board of education may be nominated by convention,
3 primary or petition in the manner and under the provisions now
4 or hereafter prescribed by the state laws relating thereto. *Pro-*
5 *vided, however,* that no political party shall nominate more than
6 the number to which it is entitled.

Sec. 9. Every person so nominated for the office of school
2 commissioners, or member of board of education, shall, within
3 five days after his nomination has been certified by the political
4 party making the nomination or a petition thereof shall have
5 been filed with the board of education, make under oath, and
6 file with the secretary of said board of education, a statement
7 of the political party to which he claims allegiance, and if nom-
8 inated by more than one political party he shall state to which of
9 them he belongs. If such a person fail to make such an oath,
10 and file the same, as herein provided, the board of education
11 shall not place his name on the ballot to be voted at the ap-
12 proaching election. The aforesaid certificate of nomination or
13 petition for same shall be filed with the secretary of said board
14 of education at least fifteen days before the said election.

Sec. 10. If a vacancy occurs on the board of education it shall
2 be filled by said board by an appointment thereto of some eligible
3 person from the independent district and the person so appoint-
4 ed shall be from the same political party as the member whose
5 vacancy is being filled, and shall hold the said office for the un-
6 expired term and until his successor is elected and qualified.

Sec. 11. The board of education of the said independent dis-
2 trict shall be a corporation by the name of "The board of educa-
3 tion of the independent district of Nitro," and as such may sue
4 and be sued, plead and be impleaded, contract and be contracted
5 with; may purchase and hold such real estate and personal prop-
6 erty as it may deem necessary for the purpose of education in
7 said district, and may receive and hold any gift, grant or dona-
8 tion, devise or bequest for the benefit of the schools in the said
9 district; and shall succeed and be substituted to the rights of
10 the former board of education of the district of Poetalico, in
11 the county of Putnam and the district of Union, county of Kana-
12 wha, insofar as relates to or in any way affects the school or
13 schools or school property located within the boundaries of said
14 independent district, and may prosecute and may maintain all

15 the suits and proceedings now pending or which might have been
16 brought and prosecuted in the name of such former board of
17 education of the districts of Pocatalico or Union for the recovery
18 of any money or property or damage to any property located
19 within the said independent district, due to or vested in said
20 former boards of education, and shall also be liable in its cor-
21 porate capacity for all claims and demands legally existing
22 against the former board of education of which it is successor,
23 insofar as the same relates to the schools or school property lo-
24 cated within the boundaries of the said independent district. The
25 title of all school property, both real and personal, located with-
26 in the boundaries of said independent district is hereby vested
27 in said board of education of said independent district and its
28 successors.

Sec. 12. Annually, at the first meeting of the said board of
2 education, which is hereby required to be held on the first Mon-
3 day in July of each year, or as soon thereafter as practicable,
4 the said board of education shall organize by electing one of its
5 members president and one of its members secretary, who shall
6 perform the duties required by the general school law of their
7 respective offices and such additional duties as are herein re-
8 quired or may be prescribed by said board of education. Each
9 member of said board of education shall have one vote and only
10 one vote upon any question or motion before said board.

Sec. 13. The salary of the member of the said board of edu-
2 cation acting as president, as herein provided, shall be twenty-
3 five dollars per year; the salary of the member of the board of
4 education acting as secretary, as herein provided, shall be fixed
5 by the board of education at the time of his appointment as sec-
6 retary, provided the said salary shall not exceed the sum of one
7 hundred dollars per year; and the salaries of each of the other
8 members of said board shall be twenty-five dollars per year.
9 *Provided*, that each member of said board of education shall have
10 deducted from his salary as herein provided the sum of two
11 dollars for each regular meeting of said board that he fails to
12 attend. Said salaries shall be payable out of the building fund
13 of said district.

Sec. 14. Said board of education shall hold regular or stated
2 meetings at such time and places as the board may appoint, and
3 special meetings of said board may be called by the president, or
4 at the request of any member by the secretary. No business may
5 be transacted at a special meeting, except that mentioned in the

6 call for such special meeting, which call shall be in writing and
7 shall be recorded by the secretary in the record of the proceed-
8 ings of said meeting. Three members of said board of education
9 shall constitute a quorum for the transaction of business at any
10 meeting of said board, provided, that all the members shall have
11 had notice of the time, place and purpose of any special meeting
12 called by the president or secretary as herein provided.

Sec. 15. It shall be the duty of the board of education of the
2 independent district of Nitro annually, at the same time and in
3 the same manner now provided, or that may hereafter be pro-
4 vided by the general school law of this state, for the ascertaining
5 and making of estimates and the fixing and laying of school
6 levies by the boards of education of the various school districts
7 within the state for the support of the free schools therein, to
8 ascertain and to make such estimates of the amounts necessary
9 for the support of the schools within the said independent dis-
10 trict, to determine, fix and lay such levies on the property locat-
11 ed within said independent district, for the support of the schools
12 therein. It shall be the duty of the board of education of the
13 said independent district of Nitro annually, at such meeting to
14 levy as many cents on each one hundred dollars of valuation of
15 the taxable property of the district, according to the last as-
16 sessment thereof, as will produce the amount shown by the esti-
17 mate of said board to be necessary to be levied for the building
18 fund purposes, and levy in like manner the amount necessary,
19 after deducting the sum receivable from the general school fund
20 of the state for teachers' purposes, to continue the schools in
21 session in said independent district for a minimum term of nine
22 months in the graded or elementary schools and for a minimum
23 term of nine months in the junior and senior high schools; and
24 to levy and provide sufficient funds for all purposes to keep said
25 schools in session for the full minimum term as herein provided;
26 and the board of education of said independent district is here-
27 by authorized and empowered to lay a levy in addition to the
28 levies authorized by the general school law of the state, sufficient
29 for all purposes to conduct the school of said independent dis-
30 trict for the term fixed.

Sec. 16. It shall be the duty of the board of education to
2 provide by purchase, leasing, building, or otherwise all necessary
3 school buildings, grounds, furniture and fixtures, apparatus and
4 appliances and all other necessary supplies, which it deems
5 necessary to maintain the schools and for the education of the

6 children of school age within said independent district, and to
7 keep the school property in the said district in good repair and
8 to supply the school buildings therein with proper fuel or heat
9 and light and other things necessary for the comfort and con-
10 venience of the said schools, and to pay the cost of the same out
11 of the building fund of said district.

12 All contracts made by the board, to the extent that they shall
13 involve the levy of any future year, shall be void, and no debts
14 shall be contracted or incurred by the board in any one year
15 which shall exceed the funds available for that purpose, unless
16 the object, nature and extent thereof shall have been submitted
17 to the voters of the district, at a special election to be called by
18 the board for that purpose, and shall have received a majority
19 of all the votes cast for and against the same; *provided*, that in
20 case a bond issue is voted upon, a three-fifths vote of all votes
21 cast shall be necessary for such bond issue; the president of said
22 board shall issue a proclamation of said special election in which
23 he shall recite the object, nature and the extent of the indebted-
24 ness proposed to be incurred, and for what purpose; which proc-
25 lamation shall be published once in each week for four weeks,
26 previous to the day of election in at least two newspapers pub-
27 lished in the counties of Kanawha and Putnam. Every special
28 election held pursuant to the provisions of this section, except as
29 herein otherwise specially provided, shall be held and conducted
30 and the results certified in the manner prescribed for the gen-
31 eral election. The proceeds of taxes so levied, or property sold,
32 of all donations and devises applicable to any of the purposes
33 mentioned in this section shall constitute a fund to be called the
34 "building fund," to be appropriated exclusively to the purpose
35 mentioned in this section.

Sec. 17. It shall be the duty of the board of education to
2 establish and cause to be taught in said independent school dis-
3 trict, including a high school or high schools, as it may deem
4 necessary for the proper education of all children of school age
5 residing therein. Said board of education shall have exclusive
6 control of all the schools within the said district; shall, with
7 the approval of the superintendent of said schools, prescribe the
8 subjects to be taught in the high school and other schools of the
9 said district; shall have power to make all necessary rules and
10 regulations for the government of said schools, for the admission
11 of pupils therein, and for the exclusion of any and all pupils
12 whose attendance would be dangerous to the health or detrimen-

13 tal to the morals of said schools. The said board may, with the
14 approval of the superintendent of the independent schools, pre-
15 scribe and adopt a uniform line of text-books for the use of the
16 schools of the said district, and may furnish such books and
17 stationery and other supplies to make the system efficient and
18 pay the same out of the building fund of said district.

Sec. 18. The board of education shall provide and maintain
2 one or more graded or elementary schools for the education of
3 the colored youth of the district, and shall establish and maintain
4 a high school for the colored youth who have completed the
5 graded or elementary course, if in the opinion of the board of
6 education there are sufficient number of such colored youth re-
7 siding within the district to justify the maintenance of such
8 high school; *provided*, that in no case shall such high school be
9 maintained where the average daily attendance of the same is
10 less than ten pupils. Said school shall be under the same super-
11 vision and direction, have the same length of term and receive
12 the same attention in all particulars, and details as the schools
13 provided for the education of the white youth of the district,
14 but in no case shall the white and colored youth of the district
15 attend the same school, or schools in the same building, or use,
16 or occupy the same school library at the same time.

Sec. 19. The board of education shall appoint as hereinafter
2 provided, all teachers and principals, and provide for substitute
3 teachers when necessary for all the public schools within the said
4 district and fix their compensation. The said teachers and prin-
5 cipals shall be subject in all respects to the rules and regulations
6 adopted by the board of education and the superintendent of
7 schools of the independent district, and they may be removed by
8 said board of education for incompetency, neglect of duty, gross
9 immorality, or whenever from any cause it shall appear to said
10 board that their removal is for the best interest of the schools of
11 the district. The said board shall also employ janitors and cus-
12 todians of their school buildings and fix their compensation, and
13 may remove such janitors whenever it shall appear to said board,
14 from any cause, that their removal is for the best interest of the
15 schools of the said district.

Sec. 20. Annually, on or before the first day of July, or as
2 soon thereafter as circumstances will allow, the board shall elect
3 a superintendent of schools for the independent district and fix
4 his salary; *provided*, that nothing in this act shall prevent the
5 board from contracting with the superintendent for a longer

6 period than one year should it so desire. Such superintendent
7 shall be known as "the superintendent of schools of Nitro in-
8 dependent district," and in addition to the duties prescribed by
9 this act shall have such powers and perform such duties as the
10 board of education shall direct.

11 The superintendent of schools may be removed from office at
12 any time for incompetency, neglect of duty, immorality, or for
13 any palpable violation of the law. But he shall not be removed
14 except on charges preferred in writing by a school commissioner.
15 A copy of such charges and notice of the time and place set for
16 hearing shall be delivered to him at least ten days before the
17 time set for such hearing, and he shall be allowed to present
18 any evidence of his innocence that he may desire, and be heard
19 in his own defense. A vacancy in the office of superintendent of
20 school shall be filled by the board of education by appointment,
21 whenever such vacancy may occur.

22 It shall be the duty of the superintendent of schools, an-
23 nually, on or before the first meeting in July, at a meeting of
24 the board of education, or as soon thereafter as circumstances
25 will allow, to recommend to the board of education a sufficient
26 number of teachers and principals to fill the schools of the in-
27 dependent district.

28 The board of education may refuse to appoint any or all of
29 the persons so recommended and may require the superintendent
30 of schools to recommend others, but no teacher, principal or
31 supervisor shall be employed except on the recommendation of
32 the superintendent of schools; *provided*, that the superintendent
33 of schools within a reasonable time after being required to do so,
34 fail or refuse to recommend a sufficient number of persons,
35 under this section, to fill vacancies, the board of education may
36 proceed to fill such vacancies without his recommendation.

37 It shall be the duty of the superintendent of schools with the
38 approval of the board of education, to prescribe the branches to
39 be taught in the high schools of the district, to carry out the
40 provisions of the course of study prescribed by the state board
41 of education and to supplement the high school course thus pre-
42 scribed and to adapt it to the high schools of the district; to pre-
43 scribe regulations for the examination for graduation of pupils;
44 to prescribe conditions for the admission of pupils to the high
45 schools, to have prepared questions for the examination of such
46 pupils, to issue certificates to such pupils as are deemed worthy
47 to be admitted to high schools, to keep a register of all certificates

48 so issued, to select courses of reading to be pursued by the teach-
49 ers of the district, to select books for the school libraries, to
50 acquaint himself with the best methods in the schools of other
51 cities; and to this end the board of education of the independent
52 district may appropriate such sums out of the building fund
53 of the district as it may be necessary to pay his traveling ex-
54 penses, to prepare and to have printed all necessary forms to be
55 used in the district, to make such annual report to the board of
56 education as it shall require, to provide suitable certificates for
57 the graduates of the elementary schools and grammar schools of
58 the district and diplomas for the graduates of the high schools
59 and prescribe the manner and circumstances under which the
60 same may be conferred, to arrange with other schools and colleges
61 for recognition for the work done in the district.

62 The salary of the superintendent of schools may be paid out
63 of either the teachers' fund or the building fund, or both.

Sec. 21. No pupil shall be entitled to enter high school, or
2 high schools, of the said district until the superintendent of the
3 said schools shall have satisfied himself that the said pupil has
4 made due proficiency in the grades of the grammar schools of
5 the said district. Pupils who are non-residents of the indepen-
6 dent district may be allowed to attend the schools of the said
7 independent district upon payment of such tuition as is pro-
8 vided by the general school law of the state or as the board of
9 education may prescribe.

Sec. 22. If any person or persons shall mar, deface, or other-
2 wise injure any school house, out-building, fence, furniture, or
3 other property of the district, the person or persons so offending
4 shall be liable to prosecution before any justice of the peace in
5 the district, and upon conviction shall be subject to a fine of not
6 less than five dollars nor more than one hundred dollars, and
7 cost of prosecution; and the person convicted shall also be liable
8 for full amount of the damage.

9 If the injury be done by a minor, the parent or guardian of
10 the said minor shall be liable for the damages as aforesaid. It
11 shall be the duty of the board of education of said independent
12 district to ascertain if possible by whom such an offense was
13 committed, and when satisfied thereof to cause the party or
14 parties to be arrested, tried for the offense, in the name and
15 on the behalf of the board of education of the independent dis-
16 trict; and all fines and damages collected by virtue of this sec-

17 tion shall be paid into the district treasury to the credit of the
18 building fund of the said district.

Sec. 23. All the provisions of the general school law of the
2 state, and all the acts heretofore existing, which are in any
3 manner inconsistent with the provisions of this act, shall be
4 void within the said independent district; otherwise the said
5 general school law shall remain in full force and effect in the
6 said independent district, as elsewhere in the state.

Sec. 24. This act shall not be effective unless and until the
2 same shall first be submitted to the voters of the territory in
3 the said districts of Pocatalico, Putnam county, and Union dis-
4 trict, Kanawha county, at a special election called for that pur-
5 pose and adopted by a majority of the votes cast for and against
6 the same at said election. Said election shall be called by the
7 board of education in the said district of Pocatalico, Putnam
8 county, and the board of education in the district of Union,
9 Kanawha county, and shall be held on the second Tuesday in
10 June, one thousand nine hundred and twenty-three; notice of
11 which election shall be published at least two weeks prior there-
12 to in a newspaper published in Kanawha county, West Vir-
13 ginia, and a newspaper published in Putnam county, West
14 Virginia. Said election shall be held and conducted in all re-
15 spects as general elections are now held and conducted under
16 the statutes of this state. The board of education of Poca-
17 talico district, Putnam county, West Virginia, and the board of
18 education of Union district, Kanawha county, West Virginia,
19 shall designate as voting places for such election the voting
20 precincts in such respective districts as established for and
21 where the general election was held in the year one thousand
22 nine hundred and twenty-two; and the said respective boards
23 of education shall appoint commissioners and poll clerks to
24 conduct the same and pay the expenses thereof out of the treas-
25 ury of said now respective existing school districts.

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

28

NITRO

29

School District Election.

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

31 [] For ratification of new district.

32 [] Against ratification of new district.

Sec. 25. If a majority of the votes cast at such election shall
2 not be for ratification, the boards of education of such respec-

3 tive districts shall call and hold a second election for such pur-
4 pose in the manner herein provided, within thirty days after
5 the filing with such boards of a petition of two hundred quali-
6 fied voters residing within the territory herein described, but
7 said second election shall not be held later than the first day of
8 July, one thousand nine hundred and twenty-four.

9 If a majority of the votes cast in one of said Pocatalico dis-
10 tricts, Putnam county, and Union district, Kanawha county,
11 shall not be for ratification, and a majority cast in the other
12 shall be for ratification, the portion of the territory within the
13 boundaries of said respective districts voting for ratification, as
14 herein described, shall be known as "The independent school
15 district of Nitro," and entitled to all the rights, authority,
16 powers and privileges as herein provided.

17 And the board of education in the said district which shall
18 at such election vote against ratification shall within thirty days
19 after the filing with said board of a petition of one hundred
20 qualified voters residing in said district, call and hold a second
21 election for the purposes specified in this act, but said second
22 election shall not be held later than the first of July, one thou-
23 sand nine hundred and twenty-four. And if said district shall
24 vote for ratification at such second election, the portion thereof
25 as herein described shall thereupon become annexed to and a
26 part of the independent district of Nitro, and which said in-
27 dependent district shall include such additional territory.

CHAPTER 102

(House Bill No. 324—Mr. Wilson of Upshur)

AN ACT to authorize the board of education of the independent school district of Buckhannon to convey a right-of-way over the land owned by said independent school district to the said municipality of Buckhannon for the designation and construction of a public street.

[Passed April 11, 1923. In effect from passage. Approved by the Governor May 1, 1923]

SEC.

1. Board of education in district of Buckhannon authorized to convey right of way.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the independent
2 school district of Buckhannon shall have authority to convey by

3 proper and apt deed a right-of-way over the land owned by
 4 said independent school district, to the municipality of Buck-
 5 hannon for the designation and construction of a public street
 6 in said municipality.

CHAPTER 103

(House Bill No. 467—Mr. Hopkins)

AN ACT to amend and re-enact section four of chapter one hundred and eleven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, as amended and re-enacted by chapter twenty-four of one thousand nine hundred and twenty-one, relating to establishing a high school in Calhoun county.

[Passed April 12, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

Sec.

4. County High School established in Calhoun County; board on corporation; levies; salaries; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

That section four of chapter one hundred and eleven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, as amended and re-enacted by chapter twenty-four of the acts of one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Sec. 4. Said board of directors shall be a corporation and
 2 as such may contract and be contracted with, sue and be sued,
 3 and shall have power to lay a levy annually of not more than
 4 fifteen cents, and for the years one thousand nine hundred and
 5 twenty-three and one thousand nine hundred and twenty-four,
 6 power to lay a special levy in addition to the regular annual
 7 fifteen cents levy not to exceed twenty cents on every one
 8 hundred dollars assessed valuation of property in said county
 9 for the purpose of purchasing said site and erecting, equip-
 10 ping and furnishing suitable buildings thereon for said county
 11 high school; and said board shall also have power to levy
 12 annually not more than twenty cents on every one hundred
 13 dollars assessed valuation of property in said county for the
 14 support and operation of said county high school; and said
 15 board shall have full power to employ teachers and other

16 necessary employees for said school, fix their compensation
17 and prescribe and enforce rules and regulations for the con-
18 trol and operation of said school.

19 For their services each of the members of said board of
20 directors shall be paid out of the money raised for the use of
21 said school the sum of five dollars per day for the time actually
22 and necessarily spent by them in the discharge of their duties
23 as such board of directors. But they shall not receive pay
24 for more than ten days for any one year.

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

CHAPTER 104

(House Bill No. 527—Mr. Daniell)

AN ACT to amend and re-enact sections one and eight of chapter
fifty of the acts of the legislature of West Virginia of the
year one thousand nine hundred and twenty-one, regular
session, relating to a high school in Wirt county.

[Passed April 16, 1923. In effect ninety days from passage. Approved by the
Governor May 1st, 1923]

<p>Sec. 1. Wirt County High School estab- lished: Board of Education, powers and duties.</p>	<p>Sec. 8. Act effective when ratified by voters of County.</p>
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Be it enacted by the Legislature of West Virginia:

That sections one and eight of chapter fifty of the acts of the
legislature for the year one thousand nine hundred and twenty-
one, be and the same are hereby amended to read as follows:

Section 1. That a high school be and the same is hereby
2 established in the county of Wirt, state of West Virginia, in
3 or near the town of Elizabeth, which shall be known as the
4 Wirt county high school, the site for which shall be selected
5 by the board of directors of said school, which said board of
6 directors shall consist of three members, composed of the county
7 superintendent of schools of said county of Wirt, who shall
8 be ex officio a member and president thereof; two members
9 who shall be elected at a general or special election provided
10 for therein and, if elected at a special election, serve until
11 their successors are elected and qualified. Their successors
12 shall be elected at the next general election and serve four

13 years, or until their successors are elected and qualified. After
 14 the first election provided for the term of office shall begin
 15 the first day of July following the election of said member.
 16 No two members of the board shall be residents of the same
 17 magisterial district.

Sec. 8. But before this act shall take effect, it shall be sub-
 2 mitted to the voters of Wirt county at a general or special
 3 election ordered by the county court of said county of Wirt
 4 and general notice of said election shall be published in two
 5 newspapers of opposite politics and general circulation in said
 6 county, for four successive weeks preceding said election, if
 7 there be two such newspapers that will publish the same at the
 8 legal rate for such publications; but if there be no such news-
 9 papers that will publish such notice at such rate, then such
 10 notice shall be posted at three of the most public places in
 11 each magisterial district in said county for a like period of
 12 time.

CHAPTER 105

(Senate Bill No. 30—Mr. Marsh)

AN ACT authorizing a special bridge levy in Wood county for the
 purpose of erecting a bridge across the Little Kanawha river
 at Parkersburg, West Virginia.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the
 Governor April 24, 1923]

SEC.

1. Special bridge levy; amount of;
 purpose of.
2. County court to decide on plans

SEC.

and specifications; separate ac-
 count of receipts and disburse-
 ments.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of constructing a public
 2 bridge across the Little Kanawha river, at the county seat of
 3 of the county of Wood, the county court of said county is here-
 4 by authorized to lay a special levy on all taxable property within
 5 the said county for the year one thousand nine hundred and
 6 twenty-three, and, if necessary, for the year one thousand nine
 7 hundred and twenty-four, and, if necessary, for the year one
 8 thousand nine hundred and twenty-five, and, if necessary, for
 9 the year one thousand nine hundred and twenty-six, and, if
 10 necessary, for the year one thousand nine hundred and twenty-

11 seven, not to exceed in any year five cents on the one hun-
 12 dred dollars valuation of said property as assessed for regular
 13 state, county, and district taxation. Said levy shall be called
 14 a "Special Bridge Levy" and the funds derived therefrom
 15 shall be used for said purpose and for no other.

16 Sec. 2. Said bridge shall be constructed according to such
 17 plans and specifications as said county court may decide upon
 18 and all moneys realized from said special levy shall be kept
 19 in a separate fund and a separate account kept of the receipts
 20 and disbursements of the same.

CHAPTER 106

(Senate Bill No. 88—Mr. Herold)

AN ACT to authorize the municipal corporation of the town of Addison, (Webster Springs) in the county of Webster, to vote upon, issue and sell its bonds to an amount, including existing indebtedness, in the aggregate not to exceed five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, the proceeds of the sale of such bonds to be applied in and used for an installation and construction of an electric light system and power plant for said town.

[Passed March 20, 1923. In effect from passage. Approved by the Governor April 11, 1923]

Sec.

1. Electric light system and power plant; corporation authorized to vote, issue and sell bonds;	amount of; council of town may acquire site, machinery, etc.; powers and duties of council under act.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of Addison (the town of Webster Springs) in the county of Webster, be and it is hereby authorized, in the manner provided by law, to vote, issue and sell its bonds to an amount, including existing indebtedness, not to exceed five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes. The proceeds from the sale of the bonds are hereby authorized to be used for the installation of an electric light system and power plant for said municipality. The common council of said town shall have authority to ac-

11 quire by purchase or condemnation and hold sites for generating
 12 hydro electric or steam power and for purposes incident there-
 13 to; to purchase and install all necessary machinery, appliances,
 14 equipments, wires and any and all things necessary or conven-
 15 ient for a complete power plant and lighting system for the use
 16 of said municipality. Said council shall possess power to dis-
 17 pose of, lease, rent or sell any power generated by said plant,
 18 and to furnish lights to the citizens of said town and to other
 19 persons upon such terms and at such rates as it may ordain.

20 This act shall not be deemed or construed as restrictive of the
 21 powers of said municipality and its common council and officers
 22 under, general law, but supplemental thereto.

CHAPTER 107

(Senate Bill No. 106—Mr. Helmick)

AN ACT authorizing and empowering the council of the town of
 Thomas in the county of Tucker, to lay a special levy in the
 year one thousand nine hundred and twenty-three, and if neces-
 sary, for the year following, for improving and extending the
 water system of the town of Thomas.

[Passed March 27, 1923. In effect from passage. Approved by the Governor
 April 11, 1923]

SEC.

1. Water works improvement; spec-
 ial levy; amount of.

Be it enacted by the Legislature of West Virginia:

Section 1. The council of the town of Thomas in the county
 2 of Tucker, is hereby authorized to lay a special levy, in addition
 3 to all other levies authorized by law, of not to exceed thirty-five
 4 cents on the one hundred dollars valuation on all the taxable
 5 property within the town of Thomas, for the year one thousand
 6 nine hundred and twenty-three, and if found necessary for the
 7 year following, for the purpose of improving and extending the
 8 water system of said town, to the end that service may be ren-
 9 dered in an adequate manner to the users of said system, the
 10 same being owned by said town.

11 Such levy shall be called a special levy for water works im-
 12 provement and the funds derived therefrom shall be used for
 13 the purposes herein specified and no other, and a separate ac-
 14 count shall be kept of all receipts and disbursements of said
 15 fund.

CHAPTER 108

(Senate Bill No. 108—Mr. Suddarth)

AN ACT authorizing the county court of Taylor county, to lay a special levy for the purpose of purchasing a site and building a court house and jail, including a jailer's residence, and to use any funds now available for court house and jail purposes, and to sell and convey the present court house and lot, and to use the proceeds arising from such sale, for the purposes aforesaid.

[Passed April 21, 1923. In effect from passage. Approved by the Governor April 26, 1923]

Sec.

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|---|---|
| 1. Special levy; purpose of; limits
aggregate amount levy not to
be laid until ratified by major- | ity of voters; county court may
submit question at general or
special election. |
|---|---|

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Taylor county, West Virginia, is hereby authorized to lay a special levy on all the taxable property within said county for the purpose of building a court house and jail, including a jailer's residence, in said county, but not to exceed, in any one year, twenty cents on each one hundred dollars valuation of the taxable property in said county; and the said county court is hereby empowered to purchase a suitable site for said court house and jail and jailer's residence, and to use any funds now or hereafter available for court house or jail purposes in the purchase of such site and the erection of such court house and jail, and for such purpose, may also sell and convey the present court house and lot, and use the proceeds arising therefrom for the purposes aforesaid. Such levy and all such funds shall constitute and be called a special court house and jail fund, and shall be used for the purposes herein specified and no other; and a special account shall be kept of all the receipts and disbursements of said funds and properly accounted for.

Provided, however, that the amount of money hereby authorized to be collected from all sources, and to be used for the purposes aforesaid, shall not exceed in the aggregate, the total sum of two hundred and fifty thousand dollars; *provided, further,* that the levy provided for in this act shall not be laid by said county court until after this act shall have been ratified by a majority of the voters of said Taylor county voting upon the question, at a general or special election at which the question

27 of its ratification or rejection shall have been submitted to the
 28 voters. The county court of said Taylor county is hereby given
 29 authority to submit said question either at a general election, or
 30 at a special election, which it may call for the purpose.

CHAPTER 109

(Senate Bill No. 138—Mr. Helmick)

AN ACT authorizing the town of Davis, in the county of Tucker, to lay a special levy for the purpose of raising sufficient additional funds to enable said town to pay indebtedness existing on the first day of February, one thousand nine hundred and twenty-two, other than bonded indebtedness, as shown by a report of the auditor of this state, certified to on the twenty-eighth day of December, one thousand nine hundred and twenty-two, by W. S. Hallanan, state tax commissioner and *ex-officio* chief state inspector of public offices under the provisions of chapter thirty-three, acts of the legislature of one thousand nine hundred and eight.

[Passed March 27, 1923. In effect from passage. Approved by the Governor
 April 11, 1923]

SEC.

1. Corporation authorized to lay | purpose of; levy to run four
 special debt levy; amount of; | years.

Be it enacted by the Legislature of West Virginia:

Section 1. The town of Davis, a municipal corporation, in
 2 the county of Tucker, is authorized to lay annually an addi-
 3 tional levy, to be called "Special Debt Levy," over and above
 4 and in addition to all other authorized levies, of not exceeding
 5 twenty cents on the one hundred dollars assessed valuation of
 6 all the assessable property within the said town of Davis, for
 7 the purpose of paying the debts owing by and existing against
 8 said town of Davis, other than bonded indebtedness, on the first
 9 day of February, one thousand nine hundred and twenty-two,
 10 as shown by a report of the auditor of the state, certified to by
 11 W. S. Hallanan, state tax commissioner and *ex-officio* chief in-
 12 spector of public offices under the provisions of chapter thirty-
 13 three, acts of the legislature of one thousand nine hundred and
 14 eight, on the twenty-eighth day of December, one thousand
 15 nine hundred and twenty-two, not to exceed, however, eight
 16 thousand dollars, which shall include interest on said indebted-
 17 ness, said levy not to continue longer than four years.

CHAPTER 110

(Senate Bill No. 201—Mr. White of Lewis)

AN ACT authorizing the laying of a special road levy by the county court of Lewis county in Hacker's Creek district for the permanent improvement of certain specified roads in said district and prescribing the manner of expending the funds raised by said levy.

[Passed April 17, 1923. In effect ninety days from passage. Became a law without approval of the Governor]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. County court authorized to lay special road levy; amount of. 2. Purpose of. 3. Road contemplated by act. 4. Funds may be allowed to accumulate; same to be placed on interest. | <p>SEC.</p> <ol style="list-style-type: none"> 5. Power to lay levy shall ipso facto terminate when projects authorized are completed; balance of fund to be transferred for district road fund; acts in conflict repealed. |
|--|--|

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Lewis county is hereby authorized, beginning with the year one thousand nine hundred and twenty-three, to lay annually a special road levy of not to exceed fifty cents on each one hundred dollars' valuation of the taxable property of Hacker's Creek district, in said county, the proceeds of which shall be known as the "Hacker's Creek Road Extension Fund". And shall be in addition to all other levies allowed by law.

Sec. 2. Such fund shall be devoted exclusively to the construction and completion on and over the routes and for the distances designated in section three of this act of a permanent or hard-surfaced county-district road conforming in type, structure and width to the recently authorized Hacker's Creek district improved road being built with the proceeds of a district road bond issue.

Sec. 3. The county-district road contemplated by this act shall consist of two sections, one extending for about two miles from the improved road in the village of Berlin to the terminus on main Hacker's creek, of the Hacker's Creek district improved road from Jane Lew, and the other extending from the bridge at the J. G. Swisher place above Berlin to the improved road in the village of Berlin. In constructing the two sections aforesaid of county-district road the existing route of the main Hacker's creek road shall be followed so far as may be found practicable.

Sec. 4. The fund which shall be created under and by virtue of this act may be permitted to accumulate until the amount thereof, as derived from the several different years' levies, shall be sufficient to carry out the projects contemplated herein as above specified, as a single undertaking or the county court of said county may have the work done progressively employing the fund from any one or more years' levies in doing such parts of the work as the court may from time to time determine upon until the projects are completed. *Provided, however,* that if the funds are not used from year to year they shall be placed in some bank in said county where they will draw interest.

Sec. 5. When the projects authorized by this act shall have been completed and paid for, the power hereby granted to lay said annual levy shall *ipso facto* terminate, and any balance that shall remain in said fund shall be transferred by said county court to the district road fund of said district.

All acts and parts of acts inconsistent and in conflict herewith are, to the extent that such conflict occurs, hereby repealed.

CHAPTER 111

(Senate Bill No. 267—Mr. White of Lewis)

AN ACT to authorize the county court of Lewis county to lay a levy for the liquidation and discharge of the indebtedness created in the purchase of a portion of the site of the 4-H camp at Jackson's Mill, in said county.

[Passed April 17, 1923. In effect from passage. Approved by the Governor April 24, 1923.]

SEC.	1. Levy for 4-H camp fund; amount of.	SEC.	2. Use of fund.
			3. Disposition of any balance of; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Lewis county is hereby authorized to lay a levy for the year one thousand nine hundred and twenty-three of not to exceed five cents on each one hundred dollars' valuation of the taxable property of said county, the proceeds of which shall be known as the "4-H camp fund."

Sec. 2. Such fund shall be used in the liquidation and discharge, both as to principal and interest, of the indebtedness

3 created and outstanding in the purchase and transfer to the
 4 state board of control of that part of the present site of the
 5 state 4-H camp, at Jackson's Mill, in said county, conveyed to
 6 said state board of control under decree of the circuit court of
 7 said county in the chancery cause therein pending of Byron S.
 8 Jackson vs. Edward B. Jackson, et al.

Sec. 3. Any balance that may remain in said fund after the
 2 object of this act shall have been accomplished, shall be trans-
 3 ferred by said county court to the general county fund of said
 4 county and used as a part thereof.

5 All other acts and parts of acts in conflict herewith, to
 6 the extent only that such conflict occurs, are hereby repealed.

CHAPTER 112

(Senate Bill No. 375—Mr. Johnson)

AN ACT authorizing the county court of Kanawha county, to lay a
 special levy in the year one thousand nine hundred and twenty-
 three and for five succeeding years, to raise funds with which
 to purchase or erect two bridges crossing the Kanawha river, at
 or near Charleston, and authorizing a vote of the people on a
 bond issue for bridges.

[Passed April 24, 1923. In effect from passage. Became a law without the
 approval of the Governor]

SEC.

1. County court authorized to lay special levy; amount of; purpose of.
2. Provisions for referendum; bonds,

SEC.

- when same may issue; to apply on what.
3. Power to lay levy ceases when bonds issue.
4. Approval required.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Kanawha county, West
 2 Virginia, be authorized to lay a special levy on all of the taxable
 3 property within said county in the year one thousand nine hun-
 4 dred and twenty-three and for each of the five succeeding years,
 5 ending with the year one thousand nine hundred and twenty-
 6 eight, for the purpose of raising funds with which to purchase
 7 all or a part of a bridge crossing the Kanawha river from
 8 Charleston to Kanawha City, and to purchase all or a part of a
 9 bridge crossing the Kanawha river on the west side of Elk
 10 river, from Charleston to South Charleston, or to erect bridges

11 at or near the same points, said special levy not to exceed five
12 cents on each one hundred dollars' assessed valuation on taxa-
13 ble property in said county; and if the amount raised by such
14 special levy in the specified time is not sufficient for the pur-
15 poses herein, and it is necessary to raise sufficient funds for said
16 purpose, the county court of said county is authorized to lay
17 such levy in the year succeeding one thousand nine hundred
18 and twenty-eight. Such levy shall be called a "Special Bridge
19 Levy", and funds derived therefrom shall be used for the pur-
20 poses herein specified and no other, and a separate account
21 shall be kept of all receipts and disbursements in said funds.

Sec. 2. The county court of said Kanawha county is hereby
2 also specifically authorized to submit to the voters of said
3 county at an election or elections called for the purpose an
4 ordinance of said court providing for the issue of bonds of the
5 county of Kanawha to an amount not exceeding one million
6 five hundred thousand dollars for the purpose of purchasing or
7 constructing, in whole or in part, as said court shall determine, a
8 bridge across the Great Kanawha river at or near the east and of
9 the present limits of the city of Charleston, another bridge across
10 the Great Kanawha river at or near the present western limits of
11 said city of Charleston, and of constructing a bridge across the
12 said Great Kanawha river connecting the magisterial districts of
13 Jefferson and Union in said county at such point as said court
14 shall determine, of constructing another bridge across said
15 Great Kanawha river within the district of Cabin creek in said
16 county at such point as said court shall determine, and of re-
17 constructing or repairing the bridge across Elk river at the city
18 of Clendenin in the magisterial district of Big Sandy.

19 Said bonds, if authorized at any election by three-fifths of
20 the voters voting thereon, shall be issued in all respects in ac-
21 cordance with the laws of the state of West Virginia governing
22 the issue of bonds, except that they shall be serial bonds, the
23 last thereof maturing not to exceed thirty years from the date
24 of issue, and bearing interest at not to exceed six per centum
25 per annum. If said county court shall elect to submit to the
26 voters of said county, the question of the issue of the bridge
27 bonds aforesaid all expense of advertisement and of holding
28 said election or elections shall be paid out of the county treas-
29 ury, and the proceeds of such bonds when sold shall be used
30 for no other purpose, except the purposes set out in this act.

Sec. 3. From and after the time that the bridge bonds of 2 the county of Kanawha provided for in the preceding section 3 shall be authorized by the people and issued, the county court 4 of Kanawha county shall have no further power to lay the 5 bridge levy authorized by section one of this act.

Sec. 4. No purchase or construction of either or any of the 2 bridges mentioned in this act shall be made or undertaken 3 without the approval of and without being done under the su- 4 pervision of the state road commission of West Virginia.

CHAPTER 113

(House Bill No. 35—Mr. Harvey)

AN ACT relating to special debt levies in the town of Gassaway, a municipal corporation.

[Passed April 12, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Special levy; amount and purpose of.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of paying any outstanding town 2 orders or judgments dated, rendered or issued prior to the 3 first day of January, one thousand nine hundred and twenty- 4 three, against the general fund of said town, the common 5 council of the town of Gassaway, is hereby authorized to con- 6 tinue to lay each year on the assessed valuation of all tax- 7 able property of said town, a "special debt levy" not to ex- 8 ceed twenty cents in any one year until the first day of Janu- 9 ary, one thousand nine hundred and twenty-eight. Such levy 10 shall be assessed and collected as otherwise provided by law, 11 and the proceeds thereof shall be used for the purpose of pay- 12 ing such judgments and orders and none other.

CHAPTER 114

(House Bill No. 40—Mr. Rexroad)

AN ACT authorizing the county court of Grant county to lay a special levy in the year one thousand nine hundred and twenty-three, and if necessary for the two years following, for building a jail and jailer's residence.

[Passed April 25, 1923. In effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. County court authorized to lay levy; amount and purpose of.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Grant county, West Virginia, is hereby authorized to lay a special levy on all taxable property within said county in the year one thousand nine hundred and twenty-three for the purposes of building a jail and jailer's residence in said county, not to exceed twenty cents on each one hundred dollars valuation of taxable property in said county; and, if the amount raised by such special levy laid in the year one thousand nine hundred and twenty-three is not sufficient for the purposes herein specified and it is necessary to raise sufficient funds for such purposes, the county court of said county is authorized to lay such levy in the two succeeding years of one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five. Such levy shall be called a special jail levy and the funds derived therefrom shall be used for the purposes herein specified and no other, and a separate account shall be kept of all receipts and disbursements in said funds.

CHAPTER 115

(House Bill No. 335—Mr. McLaughlin)

AN ACT authorizing the county court of Pocahontas county to lay a special levy in the year one thousand nine hundred and twenty-three, and if necessary for the two years following, for building a jail and jailer's residence.

[Passed April 12, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Special levy for jail; amount and purpose of.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Pocahontas county, West Virginia, is hereby authorized to lay a special levy on all the taxable property within said county in the year one thousand nine hundred and twenty-three for the purpose of building a jail and jailer's residence in said county, not to exceed ten cents on each one hundred dollars' valuation of taxable property in said county; and if the amount raised by such special levy laid in the year one thousand nine hundred and twenty-three is not sufficient for the purpose herein specified, and it is necessary to raise sufficient funds for such purpose, the county court of said county is authorized to lay such levy in the two succeeding years of one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five. Such levy shall be called a special jail levy and the funds derived therefrom shall be used for the purpose herein specified and no other, and a separate account shall be kept of all receipts and disbursements in said fund.

CHAPTER 116

House Bill No. 564—Mr. Brown)

AN ACT to authorize the municipal corporation of the town of New Cumberland to vote upon, issue, and sell bonds to an amount, including existing indebtedness, in the aggregate not to exceed five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, the proceeds of the sale of such bonds to be applied to and used for the purpose of purchasing grounds for community purposes and to build a community house on said grounds, and to equip said grounds for park and athletic purposes.

[Passed April 6, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.

- | | |
|--|---|
| 1. Municipal corporation of New Cumberland authorized to issue | bonds for providing Community house; act supplemental to general law. |
|--|---|

Be it enacted by the Legislature of West Virginia:

Section 1. That the municipal corporation of the town of
2 New Cumberland, in the county of Hancock, be and it is hereby
3 authorized in the manner provided by law to vote, issue and
4 sell its bonds to an amount, including existing indebtedness, not
5 to exceed five per centum on the value of the taxable property
6 therein, to be ascertained by the last assessment for state and
7 county taxes. The proceeds from the sale of the bonds are
8 hereby authorized for the purpose of purchasing grounds for
9 community purposes and to build a community house on said
10 grounds so purchased and to equip said grounds for park and
11 athletic purposes.

12 This act shall not be deemed or construed as restrictive of the
13 powers of said municipality and its common council and officers
14 under general law, but supplemental thereto.

CHAPTER 117

(House Bill No. 579—Mr. Cox)

AN ACT authorizing a special bridge levy in Fayette county for
the purpose of erecting a bridge across New river at Stone
Cliff, West Virginia.

[Passed March 23, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

SEC.

1. County Court of Fayette author-
lized to lay special levy to build
bridge at Stone Cliff; levy not
to exceed five cents per year for
five years.

SEC.

2. County Court to prescribe plans;
money raised to be kept in sep-
arate fund.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of constructing a public bridge
2 across New river at Stone Cliff, in the county of Fayette, the
3 county court of said county is hereby authorized to lay a spe-
4 cial levy on all taxable property within the said county for
5 the year one thousand nine hundred and twenty-three, and if
6 necessary, for the year one thousand nine hundred and twenty-
7 four, and if necessary, for the year one thousand nine hundred
8 and twenty-five, and if necessary, for the year one thousand
9 nine hundred and twenty-six, and if necessary, for the year
10 one thousand nine hundred and twenty-seven, not to exceed in

11 either year five cents on the one hundred dollars' valuation
 12 of said property as assessed for regular state, county and dis-
 13 trict taxation. Said levy shall be called a "Special bridge
 14 levy," and the funds derived therefrom shall be used for said
 15 purpose and for no other.

Sec. 2. Said bridge shall be constructed according to such
 2 plans and specifications as said county court may decide upon
 3 and all moneys realized from said special levy shall be kept
 4 in a separate fund and a separate account kept of the re-
 5 ceipts and disbursements of the same.

CHAPTER 118

(House Bill No. 639—Mr. Hatfield)

AN ACT to validate the proceedings authorizing the issuance of
 bonds of the town of Clark, McDowell county, West Virginia,
 in the sum of eighteen thousand dollars for the purpose of
 making repairs, improvements and additions to the facilities
 for supplying and distributing water to consumers in said
 town, and for additional lighting facilities; for improvements
 on the streets and sidewalks and sewer system, and for the
 construction of a bridge across Elkhorn creek; and to author-
 ize the execution and sale thereof, and to provide a tax to pay
 the same.

[Passed March 22, 1923. In effect from passage. Approved by the Governor
 April 24, 1923]

SEC.	1. Town of Clark in McDowell Coun- ty, authorized to issue bonds for	improvement purposes; bonds, when payable; bonds heretofore authorized.
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Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of
 2 bonds of the town of Clark, McDowell county, West Virginia,
 3 in the amount of eighteen thousand dollars for the purpose of
 4 making repairs, improvements and additions to the facilities
 5 for supplying and distributing water to consumers in said
 6 town, and for additional lighting facilities; for improvements
 7 on the streets and sidewalks, and sewer system of said town,
 8 and for the construction of a bridge across Elkhorn creek con-
 9 necting the town with the railroad station, which bonds bear

10 date the first day of January, one thousand nine hundred and
11 twenty-three, and interest at the rate of six per centum per
12 annum, and are to be numbered from one to eighteen, both in-
13 clusive, issued serially in denominations of one thousand dollars
14 each and in installments payable as follows:

15 Numbers one (1) to five (5), both inclusive, shall be payable
16 on January one, one thousand nine hundred and thirty-three.

17 Numbers six (6) to eight (8), both inclusive, shall be pay-
18 able on January one, one thousand nine hundred and thirty-
19 eight.

20 Numbers nine (9) to eleven (11), both inclusive, shall be
21 payable on January one, one thousand nine hundred and forty-
22 three.

23 Numbers twelve (12) to fourteen (14), both inclusive, shall
24 be payable on January one, one thousand nine hundred and
25 forty-eight.

26 Numbers fifteen (15) to eighteen (18), both inclusive, shall
27 be payable on January one, one thousand nine hundred and
28 fifty-three.

29 Which said bonds were authorized by an ordinance of said
30 town of Clark, and by an election held in said town for that
31 purpose, on the seventh day of December, one thousand nine
32 hundred and twenty-two, at which election more than three-
33 fifths of all the votes cast for and against the issuing of said
34 bonds were in favor of their issuance, are hereby in all respects
35 validated and confirmed. The constituted and acting authori-
36 ties of the town of Clark are hereby authorized to execute, make
37 sale of, and deliver such bonds pursuant to such proceedings at
38 not less than par, and to make the levy authorized by said pro-
39 ceedings, for the purpose of paying the interest on, and princi-
39 pal of said bonds as therein provided.

CHAPTER 119

(House Bill No. 640—Mr. Bruns)

AN ACT to provide for the laying of a special levy by the county court of Wayne county, West Virginia, for the year of one thousand nine hundred and twenty-three, on all the taxable property in Ceredo magisterial district of said county, for the

purpose of constructing, grading and draining a county road from the town of Kenova, up Happy hollow, Sweet run and Dock's creek to Dunlieth, on Buffalo creek, Wayne county, West Virginia, and providing for the receipt and disbursement of all moneys raised by said levy.

[Passed April 24, 1923. In effect from passage. Approved by the Governor April 24, 1923]

Sec.

1. County Court of Wayne County authorized to lay special levy for constructing, grading and draining of public road.

Sec.

2. Funds to be kept separate from other funds.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of constructing, grading and draining the main leading county road beginning at the city of Kenova, up Happy hollow, up Sweet run, down Dock's creek and over to Dunlieth, at the mouth of Buffalo creek, in Ceredo magisterial district, county of Wayne, the county court of said county is hereby authorized to lay a special levy on all taxable property within the said Ceredo magisterial district for the year one thousand nine hundred and twenty-three, not to exceed twenty-five cents on the one hundred dollars valuation of said property as assessed for regular state, county and district taxation; said levy shall be called "The special county road levy of Ceredo magisterial district," and the funds derived therefrom shall be used for said purposes and for no other purpose.

Sec. 2. Said road shall be constructed according to such plans and specifications as the state road commission of the state of West Virginia and the county court of Wayne county may decide upon, and all moneys realized from said special levy shall be kept in a separate fund and a separate account kept of the receipts and disbursements of the same.

CHAPTER 120

(House Bill No. 644—Mr. Dunn)

AN ACT authorizing the county court of Preston county to lay a special road levy for the years one thousand nine hundred and twenty-three, one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five for the purpose

of securing rights-of-way, grading, draining and hard surfacing of roads in Valley district of Preston county, West Virginia.

[Passed April 13, 1923. In effect from passage. Approved by the Governor April 25, 1923]

SEC.

1. County Court of Preston County authorized to lay special levy for three years for road improvement; projects numbers one.

SEC.

two, three, four and five defined; levy for three years.
2. Construction under control of County Court.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of securing rights-of-way, grading, draining and hard surfacing, and to cover the expenditures on the following proposed hard road improvements, to-wit:

Project No. 1: Beginning at the state road in the town of Reedsville, at W. G. Cobun's store; thence along the Tunnelton and Ices Ferry pike, south from said town of Reedsville, by way of Brown's Mills, toward Gladesville.

Project No. 2: Beginning at state road in said town of Reedsville, at W. G. Cobun's store, and extending westward along the Morgantown and Kingwood pike, toward the Monongalia and Preston county line.

Project No. 3: Beginning at a point in said state highway in the northern part of the town of Masontown, where the state highway joins the Tunnelton and Ices Ferry pike; thence north toward Rohr and toward the Monongalia and Preston county line.

Project No. 4: Beginning at state road near the Bank of Masontown, in said town of Masontown; thence along the Bull run road east, toward Cheat river bridge.

Project No. 5: Beginning at state road in said town of Masontown, near the said Bank of Masontown; thence along the road toward Herring, by way of the I. N. Roby farm.

The county court of Preston county is hereby authorized to lay a special levy on all taxable property within Valley district of said county, of one dollar on the hundred dollars' valuation of said property as assessed for regular state, county and district taxation, for each of the years one thousand nine hundred and twenty-three, one thousand nine hundred and twenty-four and one thousand nine hundred and twenty-five; which said levy shall be in addition to all other levies for road purposes in said district. The funds to be raised by said levy to be divided into

32 five equal parts and expended equally on each side of said
 33 projects for securing rights-of-way, grading, draining and hard
 34 surfacing said roads, or as much thereof as the funds will per-
 35 mit; said funds to be expended on each of said projects equally
 36 as raised by said levy.

Sec. 2. Said roads shall be constructed according to such
 2 plans and specifications as said county court may decide upon,
 3 and all moneys realized from said special levy shall be kept in a
 4 separate fund and a separate account kept of the receipts and
 5 disbursements of the same. The citizens served by each of said
 6 projects may select a representative to advise with the county
 7 court in the expenditure of the moneys raised by such levy, and
 8 all expenditures to be made by the county court of Preston
 9 county.

CHAPTER 121

(House Bill No. 649—Mr. Estep)

AN ACT to validate the proceeding authorizing the issuance of
 bonds of the city of Logan, Logan county, West Virginia, for
 the purpose of providing funds for the erection of a fire de-
 partment building and the construction of an incinerator, and
 to authorize the execution and sale thereof and to provide a
 tax to pay the same and the interest thereon.

[Passed April 24, 1923. In effect from passage. Approved by the Governor
 May 1, 1923]

SEC. 1. City of Logan authorized to issue bonds to provide for fire equip- ment.	SEC. 2. Sale of bonds. 3. Levy for interest and maturing principal.
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Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of
 2 bonds of the city of Logan, Logan county, West Virginia, in
 3 the amount of twenty thousand dollars, ten thousand dollars of
 4 which shall be for the purpose of building a house to be used
 5 by the fire department of the said city of Logan in storing the
 6 equipment, and the remainder, ten thousand dollars, in the
 7 building and construction of an incinerator to take care of the
 8 refuse accumulated in said city, which bonds bear date as of
 9 the first day of April, one thousand nine hundred and twenty-
 10 three, and bearing interest at the rate of not exceeding six per

11 cent per annum and due and payable on the first day of April,
12 one thousand nine hundred and twenty-three, and were author-
13 ized by an ordinance of said city of Logan and by an election
14 held in said city for that purpose, on the tenth day of March,
15 one thousand nine hundred and twenty-three, at which election
16 three-fifths of all the votes cast for and against ratification of
17 said ordinance voted in favor of the ratification thereof, and the
18 issuance of bonds thereunder, are hereby in all respects vali-
19 dated and confirmed.

Sec. 2. The constituted and acting authorities of the city
2 of Logan are hereby authorized to execute, make sale of, and
3 deliver such bonds pursuant to such proceeding and not less
4 than their value.

Sec. 3. A tax sufficient to pay the interest and maturing
2 principal of the bonds mentioned in section one of this act
3 shall be levied each year as required by the constitution, any-
4 thing herein or in any other statute to the contrary notwith-
5 standing.

CHAPTER 122

(House Bill No. 650—Mrs. Gates)

AN ACT authorizing the county court of Kanawha county, to lay a
levy of two and one-half cents on the hundred dollars valuation
of the taxable property of Kanawha county for the purpose of
building a bridge at Clendenin.

[Passed April 24, 1923. In effect from passage. Became a law without the
approval of the Governor]

SEC.

1. County Court of Kanawha County
authorized to issue bonds to
build bridge at Clendennin.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Kanawha county be and
2 it is hereby authorized and empowered to lay a special levy of
3 two and one-half cents on the one hundred dollars' valuation of
4 the taxable property of said county for the fiscal year beginning
5 July first, one thousand nine hundred and twenty-three, for the
6 purpose of erecting a bridge across Elk River at the town of
7 Clendenin in said county.

CHAPTER 123

(Senate Bill No. 40—Mr. Shinn)

AN ACT to fix the salaries of certain county officers and their assistants in the county of Jackson.

[Passed March 23, 1923. In effect ninety days from passage. Approved by the Governor April 11, 1923]

SEC.

1. Sheriff and deputies, salaries; assessor; assistants and deputies, salaries; clerk county court,

assistants and deputies, salaries; clerk circuit court, assistants and deputies, salaries; how paid; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The salary of the sheriff of Jackson county, on 2 and after January first, one thousand nine hundred and twenty- 3 five, shall be and the same is hereby fixed, at two thousand 4 dollars per year; and that of the assistants and deputies of 5 the sheriff of said county shall not exceed the sum of two 6 thousand dollars per year. The salary of the assessor of 7 said county, on and after January first, one thousand nine 8 hundred and twenty-five, shall be and the same is hereby fixed 9 at the sum of one thousand five hundred dollars per year, 10 and that of the assistants and deputies of the assessor of said 11 county shall not exceed the sum of one thousand five hun- 12 dred dollars per year. The salary of the clerk of the county 13 court of said county, on and after January first, one thousand 14 nine hundred and twenty-seven, shall be, and the same is here- 15 by fixed, at the sum of one thousand eight hundred dollars 16 per year, and that of the assistants and deputies of the county 17 clerk of said county shall not exceed one thousand two hun- 18 dred dollars per year. The salary of the clerk of the circuit 19 court of said county, on and after January first, one thousand 20 nine hundred and twenty-seven, shall be and the same is here- 21 by fixed at one thousand five hundred dollars per year, and 22 that of the assistants and deputies of the circuit clerk of said 23 county shall not exceed the sum of one hundred and fifty 24 dollars per year, each to be paid monthly.

25 All acts and parts of acts inconsistent herewith are hereby 26 repealed.

CHAPTER 124

(Senate Bill No. 51—Mr. Johnson)

AN ACT relating to the salaries of the probation officers of Kanawha county.

[Passed April 21, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

Sec.

1. Probation officer; salary; deputies, salaries; by whom paid; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The chief probation officer shall receive such salary as the juvenile judge may prescribe, not exceeding three thousand five hundred dollars per annum. The first deputy probation officer shall receive such salary as may be prescribed by the juvenile judge, not exceeding two thousand four hundred dollars per annum. The other deputy probation officers shall receive such salaries as may be prescribed by the juvenile judge, not exceeding one thousand eight hundred dollars per annum. The salaries shall be paid out of the county treasury of the said county of Kanawha.

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

CHAPTER 125

(Senate Bill No. 61—Mr. Darnall)

AN ACT to amend and re-enact section nine, of chapter one hundred and sixty-eight, of the acts of the legislature of West Virginia, of one thousand nine hundred and twenty-one, relating to the domestic relations court of Cabell county.

[Passed April 17, 1923. In effect from passage. Became a law without the approval of the Governor]

Sec.

- | | | | |
|----|---|--|---|
| 9. | Clerk of the circuit court to be clerk of domestic relations court; | \| | to sign processes, etc.; salary for services. |
|----|---|--|---|

Be it enacted by the Legislature of West Virginia:

That section nine, of chapter one hundred and sixty-eight of the acts of the legislature of West Virginia of one thousand nine hundred and twenty-one, relating to the domestic relations court

of Cabell county, be amended and re-enacted so as to read as follows:

Section 9. The clerk of the circuit court of Cabell county shall act as and perform the duties as clerk of the said domestic relations court and shall exercise the same powers and duties arising within the jurisdiction of said court as are performed by him as clerk of the circuit court of said Cabell county. All processes, rules and orders of said court in the exercise of its jurisdiction shall be signed by the clerk thereof to be directed to the sheriffs of the proper counties wherein the same are executed in like manner and with the same effect as processes issuing from the circuit court of said Cabell county.

And the clerk of said domestic relations court shall receive for his services as such the sum of one thousand dollars per year, payable monthly, from the county treasury.

CHAPTER 126

(Senate Bill No. 102—Mr. White of Mingo)

AN ACT to fix the salary of the prosecuting attorney of Wyoming county, and fixing the time and manner of the payment of the same; and also providing for the appointment of an assistant prosecuting attorney of said county and fixing the salary of such assistant.

[Passed April 21, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

SEC.

1. Salary; how paid.
2. Assistant prosecuting attorney; salary; how paid; duties; re-

moval; vacancy, how filled; principal may stop salary of assistant, when; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. On and after January first, one thousand nine hundred and twenty-five, the county court of Wyoming county, West Virginia, shall allow and pay to the prosecuting attorney thereof, out of the treasury of said county, an annual salary of not less than three thousand dollars and not exceeding four thousand dollars, which salary shall be paid monthly in the same manner that the salaries of other county officers are paid.

Sec. 2. On and after January first, one thousand nine hundred and twenty-five, the prosecuting attorney of said county

3 may designate and appoint some competent attorney as assist-
 4 ant prosecuting attorney of said county, whose salary shall be
 5 not less than twelve hundred dollars per annum nor more than
 6 eighteen hundred dollars per annum, at the discretion of the
 7 county court. Such salary shall be paid to said assistant
 8 monthly, out of the county treasury, and in the same manner
 9 as the salaries of other county officers are paid. Such assistant
 10 shall take the same oath and perform the same duties required
 11 by law of his principal. He may be removed from office at the
 12 will of his principal, or for misconduct or neglect of duty. In
 13 case such assistant shall be removed, the vacancy may be filled
 14 by the principal as herein provided for his appointment. The
 15 appointment of an assistant shall always be discretionary with
 16 the principal, and the principal may, at any time, by thirty
 17 days' notice to the assistant, stop the payment of the salary of
 18 such assistant.

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

CHAPTER 127

(Senate Bill No. 117—Mr. Coffman)

AN ACT empowering, authorizing and requiring the county court of Harrison county to appropriate and pay to "The Children's Home of Clarksburg," money for the support and maintenance of the abandoned, neglected and indigent children of said county, kept in said home, to lay an annual levy to provide revenue therefor, and to require the officer of such home to give surety for the faithful application of such appropriation.

[Passed April 21, 1923. In effect from passage. Became a law without the approval of the Governor]

<p>Sec. 1. County court authorized to appropriate money for; levy. 2. Bond; what constitutes forfeiture;</p>	<p>annual statement; investigation of cases; expenses of same; how paid; report to prosecuting attorney; acts in conflict repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Harrison county is hereby
 2 fully authorized and empowered, as well as requested to ap-
 3 propriate money and pay over to "The Children's Home," a
 4 non-stock and non-profit sharing corporation, of Clarksburg,

5 in which dependent, neglected, abandoned, homeless, unfor-
6 tunate and delinquent children of said county are kept, main-
7 tained and educated. The county court of said county, at each
8 annual levy period, shall lay a levy on all taxable property,
9 both real and personal in said county, not to exceed one mill
10 on each one hundred dollars valuation thereof, to provide the
11 money for said appropriation, and said county court shall ap-
12 propriate for the use and benefit of said home all, or so much
13 of the money or funds so derived, as shall be necessary to
14 properly keep, maintain and educate said children while they
15 remain in said home.

Sec. 2. No part of said appropriation shall be paid un-
2 til there has been executed on the part of said "The Chil-
3 dren's Home," a bond with good and sufficient surety, stipu-
4 lating and providing that all of said appropriation, and every
5 part thereof, shall be faithfully and honestly applied for the
6 use and benefit of said children, and in conformity with the
7 purposes of the charter of said home, that is, for the care,
8 protection, training and education of neglected, abandoned,
9 homeless, unfortunate, or delinquent children, and to locate
10 and find proper and suitable homes for such children in pri-
11 vate homes secured for such purposes; and a failure so to do
12 shall be a forfeiture thereof; said bond to be approved by said
13 county court and shall be kept as a record in the office of the
14 clerk thereof. If any part of said appropriation so raised by
15 taxation in any one year shall not be used, then all such part
16 thereof as may be unexpended, shall be returned to the county
17 treasury. Said home, shall by its proper officers, make an
18 annual verified statement and settlement with the county
19 court, showing when, where, and how said funds or appro-
20 priation has been applied and disbursed.

21 But before any of said money so appropriated may be ex-
22 pended by said home for keeping, maintaining and educating
23 any child as aforesaid, a thorough investigation shall be made
24 of the necessity of such action in order that no imposition
25 may be practiced upon said home, and to that end the ex-
26 penses of such investigation, not to exceed the sum of five
27 dollars, in each case, may be paid out of said fund. And upon
28 such investigation, if it clearly appears to the management of
29 said home that such child so investigated has a father who
30 is able and capable to keep, maintain and educate such child

31 and is failing and neglecting so to do and thereby violating
 32 any of the laws of this state, the said management shall report
 33 the facts to the prosecuting attorney of said county.

34 All acts and parts of acts inconsistent herewith are hereby
 35 repealed.

CHAPTER 128

(Senate Bill No. 121—Mr. Bowers)

AN ACT to authorize the county court of Marion county, or any
 other county, to appropriate county funds to assist boys and
 girls in erecting county buildings at Jackson's Mills.

[Passed April 19, 1923. In effect ninety days from passage. Became a law
 without the approval of the Governor]

SEC.

- | | |
|---|---|
| 1. County court authorized to ap-
propriate money to assist in 4-H | camp property at Jackson's
Mills; acts in conflict repealed. |
|---|---|

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Marion county, or any
 2 other county, is hereby authorized to appropriate money from
 3 the county fund to assist the boys and girls of that county in
 4 erecting county buildings on the state 4-H camp property at
 5 Jackson's Mills.

6 All acts, or parts of acts, in conflict or inconsistent herewith
 7 are hereby repealed.

CHAPTER 129

(Senate Bill No. 134—Mr. Reynolds)

AN ACT to authorize the county court of the county of Mineral to
 establish and maintain a county law library.

[Passed April 17, 1923. In effect ninety days from passage. Became a law
 without approval of the Governor]

SEC.

- | | |
|---|--|
| 1. For whom; location.
2. County Court may purchase law
books, etc. | SEC.
3. Court to appoint committee; who
shall compose; powers; duties;
librarian.
4. Powers of county court under act. |
|---|--|

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of the county of Mineral is
 2 hereby authorized to establish and maintain a law library for

3 the use of the judge of the court of said county, all attorneys
4 at law practicing in said court, and all public officers of said
5 county, or any subdivision thereof, and municipalities therein.
6 Said library shall be designated as "The Mineral County Law
7 Library", and shall be located in the courthouse of said county.

Sec. 2. The said county court of the county of Mineral may,
2 within its discretion, purchase law books, law periodicals, sta-
3 tionery, supplies, furniture and equipment for said library, and
4 for said purpose shall have authority to expend such money
5 as may be necessary to purchase the foregoing.

Sec. 3. The said county court, if it establishes such library,
2 shall appoint a committee of three lawyers to purchase said
3 library, one of whom shall be the judge of the circuit court of
4 said county, and no law books shall be purchased for said library
5 except upon the order of said committee; and the said commit-
6 tee shall have the power to make and enforce all rules and
7 regulations that may be necessary for the government of the
8 said library and the use thereof. The clerk of the circuit court
9 of said county shall be the librarian.

Sec. 4. The said county court shall have the authority to
2 receive for said library any books or other property by loan,
3 gift or bequest. The said county court by and with the consent
4 of the committee provided for in section three of this act shall
5 have authority to sell, exchange or otherwise dispose of any
6 books that it may deem not needful for said library.

CHAPTER 130

(Senate Bill No. 266—Mr. White of Lewis)

AN ACT to authorize the state board of control in conjunction with
The Weston Electric Light, Power & Water Company, to erect,
maintain and operate a dam or dams across the West Fork
river at such point or points in and above the city of Weston
as may be necessary or advantageous to provide an adequate
and dependable water supply for the Weston state hospital
and the portions of the public served and to be served by said
company, and to protect the waters of such river against con-
tamination.

[Passed April 21, 1923. In effect ninety days from passage. Approved by the Governor April 26, 1923]

Sec.

1. State board of control and Weston Electric Light, Power and Water Company authorized to erect, operate and maintain dam or dams across West Fork river; location of; purpose of.

SEC.

2. Expense of; how paid.
3. Right to condemn land.
4. Contamination of waters.
5. Penalty for violation section four; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The state board of control is authorized, in conjunction with The Weston Electric Light, Power & Water Company, to erect, operate and maintain at such point or points and of such type, construction and height as may by them be found practicable or desirable, a dam or dams across the West Fork river in and above the city of Weston, in Lewis county, for the purpose of impounding and storing water for use in furnishing the Weston state hospital and the portions of the public served and to be served by said company with an adequate and dependable supply of water at all seasons.

Sec. 2. That the expense of all projects that may be undertaken or carried out under authority of this act, shall be borne equally by said state board of control and said public utility company.

Sec. 3. That if it shall be necessary to take, appropriate, use or invade private property in the erection, operation or maintenance of such dam or dams or the impounding of water thereby, said state board of control and said public utility company, or either of them, may, and they, or either of them, with the consent of the other, is hereby granted authority to exercise the right of eminent domain in respect to any property so taken or damaged, or proposed to be taken or damaged, and they, or either of them, with the consent of the other, may proceed according to the provisions of chapter forty-two of Barnes' code of one thousand nine hundred and twenty-three, in condemning and acquiring the property so to be taken or damaged.

Sec. 4. It shall be unlawful for any person, firm, association or corporation to cast, or permit the drainage into, or to deposit in or along the waters of said river, or its tributaries, above any dam or dams that may be constructed, owned or operated by said state board of control and said public utility company, any animal or vegetable matter the mingling of which with said main or tributary waters of said river will contaminate the same or render them impure.

Sec. 5. Every violation of section four of this act shall be
2 punishable by a fine of from twenty-five to fifty dollars, or a
3 jail sentence of from five to ten days, at the discretion of the
4 court.

5 All acts and parts of acts in conflict herewith, to the extent
6 only that such conflict occurs, are hereby repealed.

CHAPTER 131

Senate Bill No. 272—Mr. Reynolds)

AN ACT to fix the compensation of the clerk of the circuit court
and the clerk of the county court of Mineral county.

[Passed April 26, 1923. In effect ninety days from passage. Became a law
without the approval of the Governor]

Sec.

1. Clerks circuit and county courts;
salaries: how paid; acts in con-
flict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. Beginning on the first day of January, one
2 thousand nine hundred and twenty-seven, the annual compen-
3 sation of the clerk of the circuit court and the clerk of the
4 county court of Mineral county, shall each be three thousand
5 dollars, payable out of the county treasury in equal monthly
6 installments.

7 All acts and parts of acts inconsistent herewith are hereby
8 repealed.

CHAPTER 132

(Senate Bill No. 283—Mr. Hugus)

AN ACT to amend and re-enact section seven of an act entitled
“An act to establish a county court and a board of commis-
sioners of the county of Ohio, under the thirty-fourth section
of the eighth article of the constitution of the state of West
Virginia,” approved December twenty-first, one thousand
eight hundred and seventy-two and section seven, chapter
twenty-nine of the acts of the legislature of one thousand nine
hundred and nine.

[Passed April 17, 1923. In effect ninety days from passage. Approved by the Governor April 26, 1923]

SEC.

7. Board of commissioners; powers and duties; regular and special	meetings; president and clerk; salaries; vacancy in office; how filled; acts in conflict repealed.
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Be it enacted by the Legislature of West Virginia:

That section seven of an act to establish a county court and a board of commissioners for the county of Ohio, under the thirty-fourth section of the eighth article of the constitution of the state of West Virginia, approved December twenty-first, one thousand eight hundred and seventy-two and section seven of chapter twenty-nine of the acts of the legislature of one thousand nine hundred and nine, be amended and re-enacted to read as follows:

Section 7. The commissioners elected as provided in section 2 five shall constitute a board, to be known as "The Board of 3 Commissioners of the County of Ohio," by which name they 4 may sue and be sued, and make and use a common seal, and 5 enact ordinances and by-laws not inconsistent with the laws 6 of this state. They will meet steadily on the first Monday in 7 every month, at the court house of their county, and may hold 8 special and adjourned meetings at any time after their first 9 meeting after election. They shall elect one of their number 10 president of the board, and appoint a clerk, who shall hold his 11 office at their pleasure, and shall keep a journal of their pro- 12 ceedings, including a record of their ordinances in a volume 13 separate from the journal of their proceedings, and shall per- 14 form such other services pertaining to his office as may be by 15 them or by law required; and whose compensation shall be 16 thirty-five hundred dollars annually, which salary shall be paid 17 from the county treasury and no fees or additional salary shall 18 be received by said clerk. The said board shall have the same 19 powers now vested in the board of commissioners of Ohio 20 county as to the superintendence and administration of the 21 internal police and fiscal affairs of the county, including the 22 establishment and regulation of roads, ways, bridges, public 23 landings, ferries and mills, the granting of ordinary and other 24 licenses, with authority to lay and disburse the county levies. 25 The board shall, in all contested cases, judge of the election, 26 qualification and returns of its own members, and of all county 27 and district officers; and it shall exercise such other jurisdic- 28 tion and perform such other duties as may be prescribed by 29 law. The said commissioners shall each receive a compensation

30 of thirty-five hundred dollars annually, which salary shall be
 31 paid from the county treasury and no fees, commissions or
 32 additional salary shall be received by any of said commission-
 33 ers. Any commissioner may be indicted for malfeasance, mis-
 34 feasant or neglect of official duty, and, upon conviction
 35 thereof, his office shall become vacant. A vacancy in the
 36 board of commissioners, whether from resignation, removal
 37 from the sub-division from which he was elected, removal from
 38 office, death or other cause, shall be filled by the remaining
 39 members of the board.

40 All acts or parts of acts inconsistent herewith are hereby
 41 repealed.

CHAPTER 133

(Senate Bill No. 368—Mr. Henshaw)

AN ACT providing for the erection of a monument to Morgan
 Morgan, the first settler within the present boundaries of West
 Virginia.

WHEREAS, Morgan Morgan, a native of Walcs, settled at Bunker
 Hill, in what is now Berkeley county, West Virginia, in the year
 one thousand seven hundred and twenty-six, and thereby became
 the first settler and built the first house within the present state
 of West Virginia; and,

WHEREAS, The said Morgan Morgan was a man of high character,
 who, by his efforts and example, was largely useful in the commu-
 nity of which he was the founder, and had a great influence for
 good upon the early history of the territory now within the bound-
 aries of this state; and,

WHEREAS, The said Morgan Morgan is buried at Bunker Hill,
 in said Berkeley county, and no monument has been erected by
 this state in recognition of his services as such first settler and as
 one of the founders of West Virginia. Therefore,

[Passed April 17, 1923. In effect ninety days from passage. Approved by the
 Governor April 26, 1923]

SEC. 1. Provides for erection of monu- ment; commission to be appoint-	|	ed, powers and duties of same; vacancy on commission, how filled.
--	--	---

Be it enacted by the Legislature of West Virginia:

Section 1. That there shall be erected to Morgan Morgan
 2 at or near his grave at Bunker Hill, in said Berkeley county,

3 a monument commemorating his life and deeds to be paid for
 4 as the legislature shall hereafter direct, which monument shall
 5 be erected under the supervision of the governor of the state,
 6 and three persons to be appointed by the governor who shall
 7 constitute a commission, which shall serve without compensa-
 8 tion, and which shall have the right to contract for the erec-
 9 tion of this monument and to pay for the same, when such
 10 payment is authorized, and the governor shall be *ex-officio* chair-
 11 man of this commission.

12 A majority of this commission shall have the right to act
 13 and upon the death or disability of any member thereof, the
 14 governor of this state shall fill the vacancy by appointment.

CHAPTER 134

(House Bill No. 85—Mr. Ash)

AN ACT to create and establish, in the county of Monongalia, a
 court to be known as the "domestic relations court," and to
 define its jurisdiction.

[Passed April 26, 1923. In effect from passage. Became a law without the
 approval of the Governor]

SEC.		SEC.	
1.	Domestic relations court for Monongalia County established.	7.	Proceedings in absence of Judge.
2.	Jurisdiction.	8.	Procedure.
3.	Governor shall appoint Judge.	9.	Duties of clerk.
4.	Compensation, payable monthly.	10.	Duties of sheriff.
5.	Record.	11.	Prohibition officer.
6.	Powers of court.	12.	Duties of County Court.
		13.	Appeals; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created and established, in and
 2 for the county of Monongalia, a court to be known as the domes-
 3 tic relations court of Monongalia county, with jurisdiction co-
 4 extensive with the county for the trial of all cases relating to
 5 desertion and non-support of wives and children, and for the
 6 hearing and disposition of all matters relating to delinquent,
 7 defective, neglected and dependent children and to the enforce-
 8 ment of the general school laws, arising within the county or
 9 coming within the jurisdiction of the court as provided by the
 10 laws of this state now existing or hereafter enacted.

Sec. 2. The said domestic relations court shall have full and
 2 exclusive jurisdiction of all matters and causes coming within
 3 the purview of chapter fifty-one of the acts of the Legislature of

4 one thousand nine hundred and seventeen, commonly known as
5 the non-support act; within the purview of chapter one hundred
6 and eleven of the acts of the legislature of one thousand nine
7 hundred and nineteen, commonly known as the juvenile act;
8 within the purview of chapter one hundred and thirty-four of
9 the acts of the legislature of one thousand nine hundred and
10 twenty-one, commonly known as the children's guardian act;
11 within the purview of chapter two of the acts of legislature of
12 one thousand nine hundred and nineteen, commonly known as
13 the general school law; within the purview of chapter one hun-
14 dred and thirty-four of the acts of the legislature of one thousand
15 nine hundred and and twenty-one, commonly known as the de-
16 pendent and neglected children act; and within the purview of
17 all amendments and re-enactments of the said several acts, and of
18 all other or future acts of the legislature of West Virginia touch-
19 ing the subject matter of any of the said laws and of the com-
20 mon law of this state relating to the subject matter thereof. All
21 the power and jurisdiction, and the proceedings and modes of
22 procedure, conferred by law upon the circuit court in any and
23 all said causes and matters are hereby conferred upon and shall
24 be exercised by the said domestic relations court.

Sec. 3. The governor of this state, on or before the first day
2 of May, one thousand nine hundred and twenty-three, shall ap-
3 point and commission a judge of said court, who shall be a per-
4 son of good character, a resident member of the bar of Monon-
5 galia county and a citizen thereof, and who shall preside over
6 said court and serve as such judge from said first day of May,
7 one thousand nine hundred and twenty-three, until the first day
8 of January, one thousand nine hundred and twenty-five. At
9 the general elections regularly held on Tuesday after the first
10 Monday in November, one thousand nine hundred and twenty-
11 four, and thereafter each four years, some person qualified as
12 aforesaid shall be elected in the manner provided by law for the
13 election of circuit court judges to be the judge of said domestic
14 relations court for the ensuing term of four years, beginning
15 on the first day of January next following such election. The
16 judge of said court may be removed from office for the same
17 reasons and in the same manner as judges of the circuit courts.
18 And if from any cause the office shall become vacant, the vacancy
19 shall be filled in the same manner as in the case of a vacancy in
20 the office of judge of the circuit court.

Sec. 4. The judge of said domestic relations court shall receive for his services the sum of one thousand eight hundred dollars per annum, payable in monthly installments out of the county treasury of said county. It shall be lawful for the judge of said domestic relations court to engage in the general practice of law or other business not affecting the duties required by this act, but he shall not act as attorney or counsel in relation to any causes or matters within the jurisdiction of said court.

Sec. 5. It shall not be necessary in any cause or proceeding in said domestic relations court that the facts authorizing it to take jurisdiction of the causes or proceedings should be set forth upon the record; but jurisdiction shall be presumed unless the contrary plainly appear by the record.

Sec. 6. The domestic relations court shall have the same powers to punish for contempt as are conferred upon the circuit court by law.

Sec. 7. In the event of the absence or disqualification of the judge of said domestic relations court, any matter within the purview of this act pending in said court may be certified by the clerk to the circuit court of said county and docketed and proceeded with therein according to law, or if not pending in said court, the same may be brought and proceeded with therein according to law.

Sec. 8. The mode of procedure in all causes and matters in said court shall be the same as prescribed in the several acts hereinbefore mentioned and in any amendments or re-enactments thereof and otherwise as prescribed for the circuit courts of this state in similar cases; and the judge of said court shall have power to make rules and prescribe forms for the transaction of the business of said court, provided the same be in conformity with the laws of this state.

Sec. 9. The clerk of the circuit court of said county shall be ex-officio clerk of said domestic relations court and shall perform the same duties and exercise the same powers arising within the jurisdiction of the said domestic relations court as are prescribed by the several acts hereinbefore mentioned and in amendments and re-enactments thereof and as are performed by him as clerk of the said circuit court for which services the county court of said county shall pay him not exceeding the sum of one thousand seven hundred and fifty dollars annually out of the county treasury of said county. All processes, rules

11 and orders of said domestic relations court shall be signed by the
12 clerk thereof and directed to the sheriffs or other proper officers
13 of the respective counties wherein the same shall be executed in
14 like manner and with the same effect as processes, rules and
15 orders issuing from the circuit court of said county.

Sec. 10. The sheriff of said county and the sheriffs of the
2 several counties of this state, as well as any constable or police
3 officer thereto required, shall, by themselves or their deputies,
4 execute all processes and orders of said court, issued by the judge
5 or clerk thereof and directed to them, respectively, in the same
6 manner as is provided by law as to processes and orders issuing
7 from the judge or clerk of said circuit court. The sheriff of
8 said county shall perform the same duties and services for the
9 said domestic relations court as he is by law required to per-
10 form for the circuit court of said county; and in the execution
11 of processes, rules and orders of said court, the officer executing
12 the same shall have the same powers and rights, and be subject
13 to the same liability as though the same issued from the circuit
14 court of said county.

Sec. 11. That for the proper and efficient administration and
2 enforcement of the matters within its jurisdiction, the judge of
3 the said domestic relations court shall name one probation officer,
4 who shall be appointed and qualified and who shall receive the
5 salary and expenses, who shall be charged with the same duties
6 and who shall have the same power and authorities as provided
7 by section six of chapter three, acts of the legislature of West
8 Virginia, of one thousand nine hundred and nineteen and of all
9 amendments and re-enactments thereof.

Sec. 12. It shall be the duty of the county court of said coun-
2 ty to provide all record and other books and stationery that may
3 be necessary, and likewise a seal for said domestic relations
4 court; but full faith and credit shall be given to the record of
5 said court and certificates of its judge or clerk, whether the seal
6 of the court be affixed thereto or not, in like manner and with the
7 same effect as if the same were records of the circuit court
8 similarly authenticated. And the said county court shall
9 furnish and provide sufficient room and furniture for the proper
10 conduct and holding of said court.

Sec. 13. Appeals may be allowed and writs of error and
2 supersedeas awarded to the judgments, rulings and orders of the
3 said domestic relations court or the judge thereof, by the circuit

4 court of said county or the judge thereof, or the judge of any
5 other circuit court in this state, in cases involving the freedom of
6 the person or the constitutionality of the law, and in case of the
7 refusal of the circuit court of said county or the judge thereof,
8 application for such writ of error and supersedeas or appeal may
9 be made direct to the supreme court of appeals of the state or
10 any judge thereof; *provided, however*, that in all cases such ap-
11 plication shall be made within sixty days next following date of
12 the entry of final order of judgment.

13 All acts or parts of acts in conflict herewith are hereby re-
14 pealed.

CHAPTER 135

(House Bill No. 93—Mr. Hatfield)

AN ACT to fix the salary of the prosecuting attorney of McDowell county.

[Passed April 13, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

Sec.

1. Salary prosecuting attorney; how and by whom paid; when effective; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the office of prosecuting at-
2 torney of McDowell county be and the same is hereby fixed
3 at the sum of four thousand eight hundred dollars per year,
4 which salary shall be allowed and paid monthly out of the
5 treasury of McDowell county, by the county court of said
6 county, in the same manner that the salaries of other county
7 officers are paid. This act shall take effect on the first day of
8 January, one thousand nine hundred and twenty-five.

9 All acts or parts of acts inconsistent herewith are hereby
10 repealed.

CHAPTER 136

(House Bill No. 197—Mr. Coffield)

AN ACT to fix the salary of the prosecuting attorney of Wetzel county; and also providing for the appointment of an assistant prosecuting attorney of said county and the employment of a stenographer for the said prosecuting attorney and fixing the compensation for each.

[Passed April 20, 1923. In effect from passage. Approved by the Governor
May 1, 1923]

SEC. 1. Salary Prosecuting Attorney of Wetzel County. SEC. 2. May appoint assistant; conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The salary of the office of prosecuting attorney 2 of Wetzel county be, and the same is hereby fixed at the sum 3 of not less than eighteen hundred dollars and not exceeding 4 twenty-one hundred dollars per annum to take effect on Janu- 5 ary first, nineteen hundred and twenty-five.

Sec. 2. The prosecuting attorney of said county may, with 2 the assent of the county court of his county entered of record, 3 appoint one practicing attorney to assist him in the discharge 4 of his official duties for and during his term of office, and such 5 assistant shall take the same oath of office and may perform the 6 same duties as required by law of his principal; and may be 7 removed from office as such assistant at any time by his prin- 8 cipal, and further, he may be removed from his office as such 9 assistant by the circuit court of the county in which he is ap- 10 pointed for any cause for which his principal might be re- 11 moved. The county court of said county shall allow annually to 12 such assistant such compensation to be paid out of the county 13 treasury as is deemed reasonable by the county court in a sum 14 not less than six hundred dollars nor more than nine hundred 15 dollars annually, in monthly payments; and the prosecuting at- 16 torney by and with the consent of the county court may em- 17 ploy a stenographer for his office at a salary of not less than 18 six hundred dollars nor more than nine hundred dollars an- 19 nually, to be paid in monthly payments out of the county 20 treasury.

21 All acts and parts of acts inconsistent herewith are hereby 22 repealed.

CHAPTER 137

(House Bill No. 209—Mr. Craig)

AN ACT to fix the salaries of the prosecuting attorneys of Brooke county and of Hancock county.

[Passed April 14, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1. Salary prosecuting attorney of Brooke and Hancock county; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. On and after January first, one thousand nine hundred and twenty-five, the salary of the prosecuting attorney of Brooke county and of Hancock county shall each be one thousand eight hundred dollars per annum.

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

CHAPTER 138

(House Bill No. 215—Mr. Hall of Wetzel)

AN ACT to authorize the county court of Wetzel county, a body politic, to acquire, by purchase or otherwise, a building or buildings, and ground or suitable site, and to erect, equip and maintain thereon a building or buildings for a hospital for the inhabitants of said county, and to extend the same privilege to others upon such terms as the county court or board may deem reasonable, and lay levies therefor.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1. County Court of Wetzel County authorized to provide Hospital for inhabitants of County.
2. Directors how appointed; term; vacancies, how filled.
3. Organization of directors.
4. Hospital for inhabitants of county; may extend privilege to others.

SEC.

5. Duties of Board.
6. Title to vest in County Court; gifts, donations, bequests.
7. Damage to property.
8. Act not effective until ratified by voters of County; form of ballot.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wetzel county, a body politic, is fully authorized to acquire and establish at the county seat, or adjacent thereto, by purchase or otherwise, ground and building, or buildings, or ground for a hospital and to erect and maintain thereon, a building or buildings, and may lay a tax for the purpose of acquiring and establishing the same of not more than five cents on the one hundred dollars, on all taxable property in said county, and thereafter a like tax of

9 not more than two cents on the one hundred dollars, such tax
10 to be levied and collected in like manner as the general taxes
11 of the county, which shall be kept separate in a fund to be
12 known as the "Hospital fund."

Sec. 2. Whenever such hospital shall be established under
2 this act the county court shall appoint a board of directors
3 consisting of fifteen members, citizens of Wetzel county; each
4 magisterial district of the county shall be entitled to at least
5 one director. Such directors shall hold office for four years
6 from the first day of July following their appointment, and
7 until their successors are appointed. No person shall be in-
8 eligible to appointment by reason of sex. Vacancies in the
9 board shall be reported to the county court and filled by ap-
10 pointment in like manner as original appointments for the
11 unexpired term. The county court may remove any director
12 for misconduct or neglect of duty. No compensation shall be
13 paid or allowed any director.

Sec. 3. The board of directors of said hospital established
2 under this act shall, immediately after their appointment, meet
3 and organize by electing one of their number as president and
4 one as secretary; a majority of all the members of any board
5 shall constitute a quorum for the transaction of business. They
6 shall make and adopt such by-laws, rules and regulations from
7 time to time for their own guidance and for the government
8 and use of the hospital as may be expedient and not incon-
9 sistent with this act. Said board shall have authority to con-
10 tract for the construction or purchase of a hospital established
11 under this act and for repairs thereon or maintenance thereof
12 and the supervision, care and custody of the ground, structure
13 or structures; *provided, however,* that all contracts shall be
14 approved by the county court and that the expenditures of all
15 funds shall be subject to the approval of the county court,
16 and all moneys belonging to the hospital fund shall be de-
17 posited in the treasury of said county to the credit of the
18 hospital fund and shall be drawn therefrom on orders issued
19 by the county court. Said orders shall not be drawn except
20 upon requisition of the hospital board attached to proper au-
21 thenticated vouchers. The buildings and ground purchased
22 for a hospital and established under this act may be acquired
23 by condemnation by said board in the same manner as the
24 county court may acquire other real estate for public uses and

25 purposes, and the title of all such property shall be and vest
26 in the county court. The said board shall have power to ap-
27 point a suitable custodian and assistants and prescribe rules
28 for their conduct; fix their duties and compensation, and shall
29 have power to remove such appointees and, in general, to carry
30 out the spirit and intention of this act.

Sec. 4. Said hospital, when established under this act,
2 shall be ostensibly for the benefit of the inhabitants of the
3 county, subject to such reasonable rules and regulations as
4 the board may adopt, in order to render the use of said hos-
5 pital of the greatest benefit to the greatest number; and the
6 said board may exclude from the use of the hospital any and
7 all persons who shall wilfully violate such rules. The board
8 of directors may extend the use and privileges of the hospital
9 to non-residents of the county upon such terms and condi-
10 tions as said board may prescribe.

Sec. 5. The board of directors shall, on or before the first
2 day of July in each year, make a report to the county court,
3 stating the condition of the property, the various sums of
4 money received from the hospital fund, and from all other
5 sources, how much money was expended and for what ex-
6 pended; also an itemized budget estimate of expense of the
7 property for the ensuing year, with such other information
8 and suggestions as they deem of general interest, or that may
9 be required of the county court.

Sec. 6. Any person or persons, including corporations, who
2 desire to make donations of cash or other personal property,
3 or real estate for the benefit of the hospital, shall have the
4 right to do so, and shall have the right to vest the title thereof
5 in the county court, to be held in trust and controlled by
6 such board, the same as the other property owned or acquired,
7 and according to the terms and for the purposes set out in
8 the deed, gift, devise or bequest.

Sec. 7. Any one who shall wilfully deface or injure such
2 hospital or property, shall be guilty of a misdemeanor, and
3 on conviction thereof shall be punished by a fine of not less
4 than ten dollars nor more than one hundred dollars or by im-
5 prisonment not exceeding twelve months, or both. The fine
6 in each case shall be paid to the proper officer of the hospital
7 fund, to be used as other money paid into its treasury.

Sec. 8. *Provided, however,* that this act shall have no force
2 or effect until it shall have been ratified by a majority of the
3 legal voters of the county of Wetzel voting upon its ratifica-
4 tion or rejection at an election to be held at the same time
5 and places as the primary election held in said county for
6 the purpose of nominating candidates for county offices to be
7 voted upon at the general election to be held in the year one
8 thousand nine hundred and twenty-four. For the purpose of
9 obtaining an expression of the voters upon the ratification or
10 rejection of this act, the county court shall cause to be printed
11 and delivered to the proper election officials appointed for
12 holding the primary election aforesaid, a ballot, containing
13 the words set out in the caption of this act, with words under-
14 neath as follows:

15 [] For ratification of act.

16 [] Against ratification of act.

17 The election upon this question shall be conducted and the
18 result ascertained and certified in the manner as that for nom-
19 inating candidates for county offices at said primary elec-
20 tion.

CHAPTER 139

(House Bill No. 273—Mr. Hatfield)

AN ACT to amend and re-enact section seven of chapter twenty-
eight of the acts of the legislature of West Virginia of one
thousand nine hundred and seven, concerning the duties of the
county court of McDowell county in respect to the criminal
court of said county.

[Passed April 6, 1923. In effect ninety days from passage. Approved by the
Governor April 24, 1923]

SEC.

7. County court to provide office,
books and stationery, seal, etc.,
for judge of criminal court.

Be it enacted by the Legislature of West Virginia:

That section seven of chapter twenty-eight of the acts of the leg-
islature of West Virginia of one thousand nine hundred and seven,
be amended and re-enacted to read as follows:

Section 7. The county court, or tribunal acting in lieu there-
2 of in McDowell county, shall provide an office for the judge of

3 said criminal court, all record books and other books and sta-
 4 tionery that may be necessary and likewise a seal for said crim-
 5 inal court; full faith and credit shall be given to the records of
 6 said court and to the certificates of its judge or clerk, whether
 7 the seal of the court be affixed thereto or not, in like manner
 8 and with like effect as if the same were record of the circuit
 9 court of certificates of the judge or clerk of the circuit court
 10 similarly authenticated.

CHAPTER 140

(House Bill No. 303—Mr. Sutton)

AN ACT to amend and re-enact section one-*n* of chapter eighty-four of the acts of one thousand nine hundred and twenty, fixing the times of holding circuit courts in the several counties of the fourteenth judicial circuit.

[Passed March 28, 1923. In effect ninety days from passage. Approved by the Governor April 24, 1923]

SEC.
 1.-*n*. Fourteenth circuit; terms of court in counties composing same.

Be it enacted by the Legislature of West Virginia:

That section one-*n* of chapter eighty-four of the acts of one thousand nine hundred and twenty be amended and re-enacted so as to read as follows:

Fourteenth Circuit

Section 1-*n*. For the county of Braxton the second Tuesday 2 in March, the second Tuesday in July and the third Tuesday in 3 November.

4 For the county of Gilmer on the second Tuesday in February, 5 the second Tuesday in June and the second Tuesday in October.

6 For the county of Webster the second Tuesday in January, 7 the second Tuesday in May and the second Tuesday in Sep- 8 tember.

CHAPTER 141

(House Bill No. 349—Mr. Hopkins)

AN ACT to extend the time in which R. J. Knotts, ex-sheriff of Calhoun county, West Virginia may have to collect unpaid taxes by due process of law.

[Passed April 24, 1923. In effect from passage. Approved by the Governor May 1, 1923]

SEC.

1. Extension of time granted ex-sheriff; for what.

Be it enacted by the Legislature of West Virginia:

Section 1. The time in which the ex-sheriff of Calhoun county, West Virginia, may have to collect unpaid taxes of every description shall be extended for a period of time as follows:

The time of the ex-sheriff of Calhoun county, R. J. Knotts, is hereby extended until January first, one thousand nine hundred and twenty-four, in which to make executions for the collection of taxes of every description which may be due and unpaid on real and personal property, whether returned delinquent by him or not.

CHAPTER 142

(House Bill No. 392—Mr. Hall of Mingo)

AN ACT to authorize the county court of Mingo county to lay an additional tax for the purpose of erecting a memorial to the soldiers and sailors of the world war.

[Passed April 24, 1923. In effect from passage. Became a law without the approval of the Governor]

SEC.

1. County court to have power to lay levy for soldiers and sailors memorial; amount of levy.

Be it enacted by the legislature of West Virginia:

Section 1. The county court of Mingo county shall have the power, upon the petition of twenty per cent of the voters of said county, based upon the number of votes cast at the last general election, to lay a tax of eight cents on the hundred dollars for the year one thousand nine hundred and twenty-

6 three and seven cents for the year one thousand nine hundred
7 and twenty-four, on all taxable property in said county for
8 the purpose of augmenting the fund heretofore established by
9 said county court under chapter forty-nine of the acts of the
10 regular session of the legislature of one thousand nine hundred
11 and nineteen, as amended, for the erection of a building or
12 other structure to the memory of the services of the soldiers and
13 sailors of the county in the world war, such tax to be levied
14 and collected in like manner as the general taxes of the county
15 are levied and collected, and to be controlled and expended in
16 accordance with the provisions of chapter forty-nine of the
17 acts of the regular session of the legislature of one thousand
18 nine hundred and nineteen, as amended by chapter one hun-
19 dred and eighty-five of the acts of the regular session of the
20 legislature of one thousand nine hundred and twenty-one.

CHAPTER 143

(House Bill No. 400—Mr. Estep)

AN ACT to amend and re-enact section one-g of chapter one hundred thirty-two of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to the time of holding terms of the circuit court in the seventh judicial circuit of West Virginia, composed of the counties of Logan and Wayne.

[Passed April 25, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1.-g. Terms of court seventh judicial circuit; acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

That section one-g of chapter one hundred thirty two of the acts of the regular session of the legislature of one thousand nine hundred and nineteen, relating to the time of holding terms of the circuit court in the seventh judicial circuit of West Virginia, composed of the counties of Logan and Wayne, be amended and re-enacted so as to read as follows:

Section 1-g. 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.

4 For the county of Wayne on the second Monday in March,
5 the second Monday in June, the second Monday in September,
6 and the first Monday in December.

7 All acts, or parts of acts inconsistent herewith, are hereby
8 repealed.

CHAPTER 144

(House Bill No. 422—Mr. Oldham)

AN ACT to amend and re-enact section one, chapter one hundred and sixty, of the acts of the legislature of West Virginia, for one thousand nine hundred and twenty-one, relating to the payment of county commissioners.

[Passed April 27, 1923. In effect ninety days from passage. Became a law without the approval of the Governor]

<p>Sec. 1. Compensation for county com- missioners for services other</p>		<p>than in court, amount, how de- termined.</p>
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Be it enacted by the Legislature of West Virginia:

That section one, of chapter one hundred and sixty, of the acts of the legislature of one thousand nine hundred and twenty-one, be amended and re-enacted so as to read as follows:

Section 1. There shall be allowed and paid out of the county treasury, as other salaries are paid, beginning on the first day of January, one thousand nine hundred and twenty-one, to each county commissioner in each county, which has now or may have at any decennial census of the United States at least the number of twentyfive thousand inhabitants or more, for services performed for such county concerning roads, bridges and other county business by said commissioners (other than services in court) the following sums of money, to-wit; for each county having one hundred thousand inhabitants or more the sum of two hundred and fifty dollars per month for each month of their term of service, respectively, and for each county which has more than fifty thousand and less than one hundred thousand inhabitants at such census, the sum of two hundred dollars per month for each month of their term of service, respectively, except as otherwise provided by law for the county of Ohio; and for each county which has more than thirty thousand and less than fifty thousand inhab-

24 itants, the sum of one hundred dollars per month for each
 25 month of their term of service respectively, and for each county
 26 that has more than twenty-five thousand inhabitants and less
 27 than thirty thousand inhabitants and not more than three com-
 28 missioners, the sum of twenty-five dollars per month for each
 29 month of their term of service, respectively. *Provided*, that in
 30 the counties of Berkeley and Wayne from and after June first,
 31 one thousand nine hundred and twenty-three, the salaries of
 32 each of said county commissioners shall be seventy-five dollars
 33 per month for each month of his term of service, respectively,
 34 for services other than services in court; *provided, further*, that
 35 in the counties of Jefferson, each of the five commissioners, and
 36 Preston, each of the eight commissioners, shall receive thirty-
 37 five dollars per month, from and after the first day of June,
 38 one thousand nine hundred and twenty-three, for each month of
 39 his term of service, respectively, for services other than services
 40 in court.

CHAPTER 145

(House Bill No. 464—Mr. Stephenson)

AN ACT to fix the salary of the prosecuting attorney of Clay county
 and the time and manner of the payment thereof; and re-
 pealing all acts and parts of acts inconsistent therewith.

[Passed March 26, 1923. In effect ninety days from passage. Became a law
 without the approval of the Governor]

Sec.

1. Prosecuting attorney Clay county;
 salary of; how and when paid;
 acts in conflict repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the salary of the office of prosecuting at-
 2 torney of Clay county, on and after the first day of January,
 3 one thousand nine hundred and twenty-five, shall be, and the
 4 same is hereby fixed at the sum of one thousand five hundred
 5 dollars per year, and the county court of Clay county shall
 6 allow and pay to the prosecuting attorney thereof, out of the
 7 treasury of said county, said salary which shall be paid monthly,
 8 in the same manner that the salaries of other county officers
 9 are paid.

10 All acts and parts of acts inconsistent with this act are here-
 11 by repealed.

CHAPTER 146

(House Bill No. 585—Mr. Zimmerman)

AN ACT fixing the salary of the prosecuting attorney of Hampshire county from and after January first, nineteen hundred and twenty-five, and repealing all acts and parts of acts inconsistent therewith.

[Passed April 27, 1923. In effect ninety days from passage. Approved by the Governor May 1, 1923]

SEC.

1. Salary of Prosecuting Attorney of Hampshire County.

Be it enacted by the Legislature of West Virginia:

Section 1. Beginning with January first, nineteen hundred and twenty-five, the annual salary of the prosecuting attorney of Hampshire county shall be one thousand dollars.

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

CHAPTER 147

(House Bill No. 371—Taxation and Finance)

AN ACT making appropriations of public moneys out of the treasury, in accordance with the provisions of the amendment to the constitution of the state of West Virginia, known as the "Budget Amendment."

[Passed June 14, 1923. In effect from passage]

SEC.

1. Appropriation of money from state treasury.
2. Appropriations for two fiscal years.
3. Appropriations appearing under sub-sections "A" and "B" payable out of general revenue of state.

SUB-SECTION "A"

4. Salaries.
5. Auditors office.
6. Attorney general's office.
7. Governor's office.
8. Pardon attorney's office.
9. Civil contingent fund.
10. Treasurer's office.
11. Secretary of State's office.
12. Department of Agriculture.
13. State Law Library.
14. Criminal Charges.
15. State Tax Commissioner's office.
16. State Commissioner of Prohibition.
17. Department of Mines.
18. Commissioner of Banking.
19. Bureau of Labor and Department of Weights and Measures.

SEC.

20. Department of Archives and History.
21. State Health Department.
22. Capitol building and grounds.
23. Governor's mansion and grounds.
24. Labor fund Capitol building.
25. Printing, binding and stationery.
26. Militia.
27. State sinking fund commission.
28. Bureau of Negro Welfare and statistics.
29. Recodification commission.
30. General school fund.
31. Miscellaneous.
32. World war—Soldiers, Sailors and Marines.
- 32-a. Emergency appropriation.
- 32-b. New capitol; to be expended by the Governor; shall secure new plans; total cost not to exceed five million dollars; office building or buildings, not to cost over two million five hundred thousand; may sell property now owned by State.

- SEC.
 32-c. Court costs.
 32-d. State aid for agricultural fairs or associations.
 33. Publication of delinquent lists.
 34. Supreme court of appeals.
 35. Circuit courts.

SUB-SECTION "B"

36. State board of control.
 37. Huntington state hospital.
 38. Spencer state hospital.
 39. Weston state hospital.
 40. State colored hospital for the insane.
 41. Welch hospital No. 1.
 42. McKendree hospital No. 2.
 43. Fairmont hospital No. 3.
 44. State tuberculosis sanitarium.
 45. State colored tuberculosis sanitarium.
 46. West Virginia industrial school for boys.
 47. West Virginia industrial school for girls.
 48. West Virginia childrens home.
 49. West Virginia colored orphan home.
 49-a. State home for aged and infirm colored men and women.
 49-a-1. Geological survey.
 49-b. Miscellaneous.
 50. State board of children's guardians.
 51. Florence Crittenton home (Wheeling).
 52. Point Pleasant battle monument commission.
 53. State board of pharmacy.
 54. Berkeley Springs board.
 55. Rumseyan society.
 56. State hotel inspector.
 56-a. Insurance on public buildings.
 58. Department of public safety.
 58-a. For treatment of drug addicts; how expended.
 58-b. For treatment of laborers and others who may become public charges; how expended.
 58-d. Boys and girls 4-H State Fair.
 58-e. To purchase property for Armory in Huntington; how expended.
 59. West Virginia University.
 60. Agricultural experiment station.
 61. Marshall College.
 62. Potomac State school (Keyser).
 63. Fairmont State Normal school.
 64. Concord State Normal school.
 65. West Liberty State Normal school.
 66. Shepherd College State Normal school.
 67. Glenville State Normal school.
 68. New River State school (Montgomery).
 69. West Virginia school for the deaf and blind.
 70. Colored deaf and blind school.
 71. West Virginia Collegiate Institute.
 72. Bluefield Colored Institute.
 73-a. Storer College.
 73-b. Commission to supervise erection of monument.
 73-c. Public school commission.

SUB-SECTION "C"

74. Appropriation under Sub-section "C" payable out of the general revenue of the state fund for the fiscal year ending June 30, 1923, except in section 78.

SEC.

Legislative Department

75. Mileage and salaries of members of Senate; compensation and per diem of other officers and attaches.
 76. Mileage of members and per diem of speaker of the house of delegates.
 76-a. Compensation of assistant clerks.
 76-b. Compensation of other elective offices; miscellaneous appropriation; house.
 77. Legislative printing and stationery.
 78. Salaries of members of the legislature; legislative manual and official register.

SUB-SECTION "D"

79. Appropriation under Sub-section "D" payable out of the general revenue of the state fund for one thousand nine hundred and twenty-three.
 80. Miscellaneous appropriations.

SUB-SECTION "E"

81. Appropriations under Sub-section "E" payable out of general school fund of the state.
 82. Department of education.

SUB-SECTION "F"

83. All appropriations appearing under Sub-section "F" payable out of state road fund.
 84. State road commission.

SUB-SECTION "G"

85. All appropriation appearing under Sub-section "G" payable out of special license fees.
 86. Public service commission.

SUB-SECTION "H"

87. All appropriations appearing under Sub-section "H" are payable out of the fund created by chapter nine, acts of one thousand nine hundred and fifteen (extraordinary session) and amendments thereto.
 88. Workmen's compensation.

SUB-SECTION "I"

89. All appropriation made payable out of "special revenue" one payable out of special revenue collected for specific purposes.

SUB-SECTION "J"

90. Refunding overpayments made into the treasury on account of taxes, etc.
 91. How appropriations drawn from treasury; requisitions for new building; architect's estimate; compensation and expenses of state boards or commissions; itemized statement of same to be filed.
 92. Printing, binding and stationery; for state superintendent of free schools, payable out of general school fund; for other boards, officers and institutions, how paid.

SEC.
 93. Appropriations not to be exceeded,
 or paid before services rendered.
 94. Clerks of house and senate to
 certify appropriation bills to au-
 ditor and treasurer.

SEC.
 95. Appropriations made by legisla-
 ture of one thousand nine hun-
 dred and twenty-one for build-
 ings and land for state institu-
 tions continued in effect.

Be it enacted by the Legislature of West Virginia:

Section 1. That there be and are hereby appropriated out
 2 of the treasury for the fiscal year ending June thirty, one thou-
 3 sand nine hundred and twenty-four, and for the fiscal year
 4 ending June thirty, one thousand nine hundred and twenty-five
 5 and for the remainder of the fiscal year ending June thirty, one
 6 thousand nine hundred and twenty-three, the following sums
 7 of money for the following-named purposes:

Sec. 2. The amounts appearing in the column headed
 2 "1924" are for the fiscal year ending June thirty, one thou-
 3 sand nine hundred and twenty-four and the amounts appear-
 4 ing in the column headed "1925" are for the fiscal year end-
 5 ing June thirty, one thousand nine hundred and twenty-five.

Sec. 3. All appropriations appearing under sub-sections
 2 "A" and "B" are payable out of the general revenue of the
 3 state unless otherwise provided herein.

SUB-SECTION "A"

<i>Salaries.</i>	1924	1925
Sec. 4. Salary of the governor	\$10,000.00	\$10,000.00
2 Salary of the auditor.....	5,000.00	5,000.00
3 Salary of the treasurer.....	5,000.00	5,000.00
4 Salary of the attorney general.....	5,000.00	5,000.00
5 Salary of the commissioner of		
6 agriculture	5,000.00	5,000.00
7 Salary of the secretary of state.....	5,000.00	5,000.00
8 Salary of the state law librarian....	3,000.00	3,000.00
8a Salary of adjutant general.....	3,600.00	3,600.00
9 Salary of the state tax commis-		
10 sioner	6,000.00	6,000.00
11 Salaries of the members of the		
12 public service commission	18,000.00	18,000.00
13 Salary of the state compensation		
14 commissioner	6,000.00	6,000.00

15	Salary of the chief of the depart-		
16	ment of mines	5,000.00	5,000.00
17	Salary of the commissioner of		
18	banking	5,000.00	5,000.00
19	Salary of the commissioner of		
20	labor	4,000.00	4,000.00
21	Salary of the state historian and		
22	archivist	2,700.00	2,700.00
23	Salary of the state commissioner		
24	health	4,800.00	4,800.00
25	Salary of the janitor	1,800.00	1,800.00
26	Salary of the keeper of the rolls...	300.00	300.00
27	Salaries of the three members of		
28	the board of control	15,000.00	15,000.00
29	Salary of the state hotel inspector	1,500.00	1,500.00
30	Salary of the state commissioner		
31	of prohibition	5,000.00	5,000.00
32	Salary of the director of the bu-		
33	reau of negro welfare and		
33a	statistics	3,600.00	3,600.00

JUDICIARY

34	Salaries of the judges of the		
35	supreme court of appeals	40,000.00	40,000.00
36	Salaries of the judges of the cir-		
37	cuit courts	125,500.00	125,500.00

EXECUTIVE DEPARTMENT

Auditor's Office.

Sec. 5. Salary of—

2	Chief clerk	3,600.00	3,600.00
3	Stenographer and file clerk.....	1,800.00	1,800.00
4	Mail clerk and messenger.....	1,500.00	1,500.00
5	<i>Accounting Department</i>		
6	Chief accountant	4,500.00	4,500.00
7	Three bookkeepers at 2,100.00 each	6,300.00	6,300.00
8	Custodian of bonds	3,000.00	3,000.00
9	<i>Claims Department</i>		
10	Auditors of claims	3,000.00	3,000.00
11	Chief warrant clerk	1,800.00	1,800.00
12	Assistant warrant clerk	1,200.00	1,200.00

13	<i>Corporation Department</i>	
14	Corporation clerk	3,000.00 3,000.00
15	Stenographer	1,500.00 1,500.00
16	Assistant clerk	1,500.00 1,500.00
17	<i>Taxation Department</i>	
18	Chief tax clerk	3,000.00 3,000.00
19	Assistant tax clerk	2,700.00 2,700.00
20	General clerk	2,100.00 2,100.00
21	Stenographer	1,500.00 1,500.00
22	Current general expenses	4,000.00 4,000.00
23	<i>Insurance Department</i>	
24	Chief insurance clerk	3,000.00 3,000.00
25	General clerk	2,400.00 2,400.00
26	License clerk	2,400.00 2,400.00
27	Field agent	1,800.00 1,800.00
28	Assistant clerk	1,500.00 1,500.00
29	Stenographer	1,500.00 1,500.00
30	Current general and traveling ex-	
31	penses	3,400.00 3,400.00
32	To pay expenses in connection with	
33	the enforcement of the specu-	
34	lative securities act in accord-	
35	ance with the provisions of	
36	chapter 99, acts 1921	5,000.00 5,000.00
37	To pay the cost of copying, repro-	
38	ducing and rebinding land	
39	records in the auditors office....	5,000.00 5,000.00
40	For refunding moneys erroneously	
41	paid into the treasury such	
42	sums are hereby appropriated as	
43	may be erroneously so paid,	
44	payable out of the same fund	
45	into which paid.	
46	For pay of state agents, such	
47	amounts are hereby appropriat-	
48	ed as may be necessary to pay	
49	commissions of state agents,	
50	payable out of the fund collect-	
51	ed; <i>provided</i> , that in no case	
52	shall the amount so paid exceed	
53	ten percentum of the funds col-	

54 lected and paid into the treas-
 55-60 ury by any such agents.
 61 For refunding to counties, dis-
 62 tricts and municipal corpora-
 63 tions municipal taxes paid into the treas-
 64 ury for the redemption of lands,
 65 such amount is hereby appro-
 66 priated as will be necessary
 67 to refund to the counties, dis-
 68 tricts and municipal corpora-
 69 tions entitled thereto the taxes so
 70 paid into the treasury.
 71 For refunding county, district and
 72 municipal taxes paid into the
 73 treasury by railroads and other
 74 companies, such sum is hereby
 75 appropriated as will be neces-
 76 sary to refund to each county,
 77 district and municipal corpora-
 78 tion the amount of such taxes
 79 as may be paid into the treas-
 80 ury to the credit of such
 81 county, district and municipal
 82 corporation.

Attorney General's Office.

2	Sec. 6. Salary of first assistant attorney general	4,500.00	4,500.00
3	Salary of two other assistant at-		
4	torneys general	8,400.00	8,400.00
5	Salary of printing clerk.....	3,000.00	3,000.00
6	Salary of reading clerk.....	1,800.00	1,800.00
7	Salary of chief clerk.....	1,920.00	1,920.00
8	Salary of two stenographers and		
9	clerks at \$1,800.00 each.....	3,600.00	3,600.00
10	Current general expenses and		
11	traveling expenses	3,000.00	3,000.00

Governor's Office.

2	Sec. 7. Salary of private secretary to the governor.....	4,500.00	4,500.00
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Pardon Attorney's Office.

Sec. 8. Salary of the pardon			
2	attorney	4,000.00	4,000.00
3	Salary of the stenographer	1,500.00	1,500.00
4	Current general expenses	500.00	500.00

Civil Contingent Fund.

Sec. 9. For civil contingent			
2	fund, to be expended upon the		
3	order of the governor, no part		
4	of which, however, is to be used		
5	for clerk hire in any of the state		
6	offices or institutions other than		
7	the governor's office	15,000.00	15,000.00

Treasurer's Office.

Sec. 10. Salary of—			
2	Assistant treasurer	4,000.00	4,000.00
3	Stenographer and file clerk	1,800.00	1,800.00

4 *Bookkeeping Department*

5	Chief accountant	3,600.00	3,600.00
6	Bookkeeper	3,000.00	3,000.00
7	Assistant bookkeeper	2,100.00	2,100.00
8	Check clerk	2,100.00	2,100.00
9	Assistant receipt and check clerk	1,720.00	1,720.00
10	Janitor and messenger	900.00	900.00

11-13 *Bond and Road Department*

14	Chief clerk	3,000.00	3,000.00
15	Current general and traveling ex-		
16	penses	3,000.00	3,500.00

Secretary of State's Office.

Sec. 11. Salary of—			
2	Chief clerk	3,000.00	3,000.00
3	Clerk to board of public works	3,000.00	3,000.00
4	Corporation clerk	3,000.00	3,000.00
5	Recording clerk	2,100.00	2,100.00
6	Stenographer and file clerk	2,100.00	2,100.00

7	Certificate clerk	1,800.00	1,800.00
8	Mail clerk and messenger.....	1,500.00	1,500.00
9	Current general expenses and trav-		
10	eling expenses	1,000.00	1,000.00

Department of Agriculture.

Sec. 12. Salary of—

2	Chief clerk	3,000.00	3,000.00
3	Secretary to commissioner	2,000.00	2,000.00
4	Librarian	1,800.00	1,800.00
5-8	Traveling expenses of commis-		
9	sioner	500.00	500.00
10	Current general expenses.....	5,000.00	5,000.00
11	For the exclusive purpose of		
12	carrying out the provisions of		
13	Chapter 12, Acts of the Regu-		
14	lar Session of the Legislature		
15	of 1915, as amended and re-		
16	enacted by Act of Legislature		
17	1919, relating to diseased ani-		
18	mals, and for cooperation with		
19	Bureau of Animal Industry,		
20	United States Department of		
21	Agriculture, all employees in		
22	carrying out the provisions of		
23	this act to be paid on a per		
24	diem basis as prescribed in this		
25	act at not to exceed \$10.00 per		
26	day and expenses while actually		
27	employed	10,000.00	10,000.00
28-33	For maintenance of quarantine		
34	For maintenance of quarantine		
35	over black wart disease of po-		
36	tato infection in Tucker and		
37	Randolph counties and other		
38	expenses relating thereto and		
39	the maintenance of other quar-		
40	antines against other crop pests		
41	in cooperation with horticul-		
42	tural board of United States		
43	Department of Agriculture.....	5,000.00	5,000.00

44	For the inspection of orchards for		
45	San Jose scale, peach yellows,		
46	cedar rust and the destruction		
47	of infected cedars and fruit		
48	trees and for the enforcement		
49	of means for the supression of		
50	orchard and field pests	5,000.00	5,000.00
51	For other expenses of the depart-		
52-53	ment of agriculture including		
54	the enforcement of the pure		
55	seed law and employment of		
56	special agents:—		
57	Seed Analyst	1,800.00	1,800.00
58	For carrying out the provisions		
59	of Chapter 44, amending and		
60	re-enacting Chapter 62-b of		
61	the code concerning the manu-		
62	facture and sale of commer-		
63	cial fertilizers, and for carry-		
64	ing out the provisions of an act		
65	of the Legislature regulating		
66	the manufacture and sale of		
67	commercial feeding stuffs, and		
68	to pay salaries and traveling		
69	expenses of chemists:		
70	One chemist	2,800.00	2,800.00
71	One chemist	2,400.00	2,400.00
72	One chemist (part time).....	600.00	600.00
73	One janitor for chemical lab-		
74	oratory	600.00	600.00
75	Traveling expenses of chemists		
76	and to pay chemists tempo-		
77	rarily employed per diem not		
78-81	to exceed \$8.00 per day.....	900.00	900.00
82	Clerk and stenographer at chemi-		
83	cal laboratory	1,800.00	1,800.00
84	Current general expenses includ-		
85	ing telephone, telegrams,		
86	freight and express charges,		
87	purchase of supplies and for		
88	maintenance of laboratory.....	2,080.00	2,080.00

89	For the exclusive purpose of carry-		
90	ing on cooperative work with		
91	the Federal Government, relat-		
92	ing to the eradication of		
93	bovine tuberculosis, the pay-		
94	ment of salaries of regularly		
95	employed approved veterinary		
96	inspectors, the payment of in-		
97	demnities for animals destroy-		
98	ed, and the purchase of tags		
99	and other necessary supplies....	32,220.00	32,220.00
100	All employees for carrying out		
101	this item to be paid a per diem		
102	of not exceeding \$10.00 per		
103	day and traveling expenses		
104	while actually employed.		

State Law Library.

	Sec. 13. Current general ex-		
2	penses and clerk hire.....	2,400.00	2,400.00
3	Purchase and binding books for		
4	law library (Charleston).....	2,500.00	2,500.00

Criminal Charges.

	Sec. 14. To pay criminal		
2	charges, including transporta-		
3	tion of prisoners and extradi-		
4	tion of criminals and fugi-		
5	tives	100,000.00	100,000.00

State Tax Commissioner's Office

General Office

	Sec. 15. Salary of—		
2	Law assistant to commissioner	5,000.00	5,000.00
3	Chief assistant	3,000.00	3,000.00
4	Clerk and stenographer	2,100.00	2,100.00
5	Stenographer and clerk	1,800.00	1,800.00
6	Mail clerk and messenger	1,500.00	1,500.00

7	<i>Inheritance Tax and Tax Forfeiture Bureau</i>	
8	Assistant inheritance tax and tax	
9	forfeiture	3,600.00 3,600.00
10	Stenographer and clerk	1,800.00 1,800.00
11	<i>Assessment and Levy Bureau</i>	
12	Assistant assessment and levies	3,600.00 3,600.00
13	Clerk	3,000.00 3,000.00
14	Clerk	2,400.00 2,400.00
15	Additional clerks	1,200.00 1,200.00
16	<i>General Expenses</i>	
17	Current general expenses and trav-	
18	ing expenses	5,000.00 6,000.00
19	<i>Gross Sales Tax Bureau</i>	
20	Assistant gross sales tax	4,800.00 4,800.00
21	Chief clerk	3,600.00 3,600.00
22	Addressograph clerk	2,100.00 2,100.00
23	Two stenographers at \$1,800.00 each	3,600.00 3,600.00
24	Mail clerk and messenger	1,500.00 1,500.00
25	Two auditors at \$2,700.00 each	5,400.00 5,400.00
26	One auditor and one cashier at \$2,-	
27	400.00 each	4,800.00 4,800.00
28	One field agent and one bookkeep-	
29	er at \$2,400.00 each	4,800.00 4,800.00
30	Clerk and bookkeeper	2,500.00 2,500.00
31	Clerk and bookkeeper	2,100.00 2,100.00
32	Clerk and bookkeeper	1,800.00 1,800.00
33	Current, general and traveling ex-	
34	penses	8,000.00 8,000.00
35	<i>Auditing State Departments</i>	
36	Chief auditor	3,000.00 3,000.00
37	Three auditors	7,740.00 7,740.00
38	Current general expenses	260.00 260.00
39	Additional help	1,500.00
40	To pay all expenses in connection	
41	with carrying out the provisions	
42	of chapter 152, acts 1921, re-	
43	lating to securing a proper	
44	assessment of property	10,000.00 10,000.00
45	Salary of chief accountant	6,000.00 6,000.00
46	Expenses of uniform system of	
47	accounting, including compen-	

48	sation of assistants, stenog-		
49	rappers and other expenses	7,500.00	7,500.00

State Commissioner of Prohibition

Sec. 16 Salary of—

2	Secretary	3,000.00	3,000.00
3	Clerk	2,100.00	2,100.00
4	Typist	900.00	900.00
5	Current general expenses and rent	3,000.00	3,000.00
6	12 regular field deputies at \$1,-		
7	800.00 each	21,600.00	21,600.00
8	Special field officers and assistants	6,000.00	6,000.00
9	Traveling expenses of commission-		
10	er, field deputies and officers	18,400.00	18,400.00

Department of Mines.

	Sec. 17. Salary of chief clerk.....	3,000.00	3,000.00
2	Salaries of twenty-two district in-		
3	spectors	66,000.00	66,000.00
4	Salary of statistical clerk	1,800.00	1,800.00
4-a	Clerk and stenographer	1,680.00	1,680.00
5	Two stenographers at \$1,320.00 each	2,640.00	2,640.00
6	Traveling expenses of chief and		
7	district inspectors	22,000.00	22,000.00
8	Current general expenses	2,400.00	2,400.00
9	Salary of inspector of sand and		
10	limestone mines	2,400.00	2,400.00
11	Traveling expense of inspector of		
12	sand and limestone mines	1,200.00	1,200.00
13	Salary of director of rescue work....	2,400.00	2,400.00
14	Traveling expenses of director and		
15	expense maintaining r e s c u e		
16	stations	6,000.00	6,000.00

Commissioner of Banking.

	Sec. 18. Salaries of four assist-		
2	ants to commissioner of banking	14,000.00	14,000.00
3	Salary of chief clerk.....	2,400.00	2,400.00
4	Salary of stenographer.....	1,800.00	1,800.00
5	Traveling expenses of commis-		
6	sioner and assistants.....	7,500.00	7,500.00
7	Current general expenses.....	1,500.00	1,500.00

Bureau of Labor and Department of Weights and Measures.

Sec. 19. Salaries of six fac-			
2	tory inspectors	14,400.00	14,400.00
3	Salary of chief clerk	3,000.00	3,000.00
4	Salary of stenographer	1,800.00	1,800.00
5	Salary of clerk	2,400.00	2,400.00
6	Current general expenses of the		
7	department of weights and		
8	measures	2,000.00	2,000.00
9	Current general expenses of the		
10	bureau of labor	1,500.00	1,500.00
11	Traveling expenses of the com-		
12	missioner of labor and factory		
13	inspectors	12,000.00	12,000.00
14	Salaries of inspectors of weights		
15	and measures	3,600.00	3,600.00
16	Traveling expenses of inspectors		
17	of weights and measures.....	3,600.00	3,600.00
18	Expense free employment bureau		
19	as provided by acts of the		
20	legislature, one thousand nine		
21	hundred and twenty-three.....	2,500.00	2,500.00

Department of Archives and History.

Sec. 20. Salary of the curator			
2	of the museum.....	2,000.00	2,000.00
3	Salary of the librarian	1,500.00	1,500.00
4	Salary of the stenographer	1,200.00	1,200.00
5	Salary of the messenger and		
6-7	janitor	1,200.00	1,200.00
8	Current general expenses	2,000.00	2,000.00
9	Purchase of books, periodicals, mag-		
10	azines and newspapers	1,500.00	1,500.00

State Health Department

Sec. 21. Current general ex-			
2	penses	60,000.00	60,000.00
3	Expenses of co-operative work with		
4	the Federal Government—Shep-		
5	pard-Towner act relating to ma-		
6	ternal and infant hygiene.....	5,000.00	5,000.00

7	<i>Bureau of Venereal Diseases</i>	
8	Salary of director	3,600.00 3,600.00
9	Salary of assistant director.....	3,000.00 3,000.00
10	Salary of field agent	1,800.00 1,800.00
11	Salary of stenographer	1,500.00 1,500.00
12	Current general expenses and trav-	
13	eling expenses	11,100.00 11,100.00

Capitol Building and Grounds.

	Sec. 22. For water, light, heat,	
2	current expenses, other than re-	
3	pairs and improvements.....	25,000.00 25,000.00
4	Repairs and improvements	5,000.00 5,000.00

Governor's Mansion and Grounds.

	Sec. 23. Current general ex-	
2	penses	5,000.00 5,000.00
3	Repairs and improvements	5,000.00 5,000.00

Labor Fund Capitol Building.

	Sec. 24. Salaries of engineers,	
2	watchmen, janitors, charwomen	
3	and elevator operators.....	26,000.00 26,000.00

Printing, Binding and Stationery.

	Sec. 25. For printing, binding,	
2	stationery and storage	60,000.00 60,000.00
3	Salaries and other expenses nec-	
4	essary to the administration of	
5	the preceding appropriation	750.00

Militia.

	Sec. 26. To carry into effect the	
2	provisions of chapter eighteen,	
3	Barnes' code as amended, relat-	
4	ing to the militia.....	55,345.00 55,345.00

State Sinking Fund Commission.

	Sec. 27. Salary of—	
2	Assistant secretary	4,000.00 4,000.00
3	Chief accountant	3,600.00 3,600.00

4	Bookkeeper	2,400.00	2,400.00
5	Stenographer	1,500.00	1,500.00
6	Current general expenses	500.00	500.00

Bureau of Negro Welfare and Statistics.

	Sec. 28. To pay for clerk hire	1,800.00	1,800.00
2	Office rent	600.00	600.00
3	Current general and traveling ex-		
4	penses	2,000.00	2,000.00

Re-Codification Commission.

	Sec. 29. Salary of the commis-		
2	sion to recodify the general		
3	statutes	18,000.00	18,000.00
4	Expenses of the recodification		
5	commission, including compen-		
6	sation of assistants, stenog-		
7	rappers and all other expenses	24,000.00	24,000.00

General School Fund.

	Sec. 30. To supplement the		
2	general school fund to meet the		
3	requirements of section 7, chap-		
4	ter 126, acts of the legislature		
5	1921	1,000,000.00	1,000,000.00

Miscellaneous.

	Sec. 31. To pay widow of		
2	Charles Walker, who was killed		
3	January third, one thousand		
4	nine hundred and twenty-one, in		
5	the state house fire. This ap-		
6	propriation to be paid at the		
7	rate of fifty dollars per month		
8	on the requisition of the state		
9	auditor	600.00	600.00
10	To pay the widow of Oscar Thax-		
11	ton, who was injured January		
12	third, one thousand nine hun-		
13	dred and twenty-one in the		

14	state house fire, and died		
15	March 14, 1921. This appro-		
16	priation to be paid at the rate		
17	of fifty dollars per month on the		
18	requisition of the state auditor	600.00	600.00
19	To pay Oscar Butcher, who was		
20	injured in 1915 at Parkersburg,		
21	W. Va., while in the service of		
22	the National Guard. This ap-		
23	propriation to be paid at the		
24	rate of \$50.00 per month on		
24a	requisition of State Auditor.....	600.00	600.00
25	To pay Grover C. Perrine, of Brax-		
26	ton county, who was injured in		
27	1914 while in the services of the		
28	West Virginia National Guard.		
29	This appropriation to be paid at		
30	rate of \$50.00 per month on the		
31	requisition of the state auditor..	600.00	600.00

World War—Soldiers, Sailors and Marines.

2	Sec. 32. For the relief of		
3	sick, disabled or indigent sol-		
4	diers, sailors and marines re-		
5	siding in West Virginia, who		
6	served in the world war, to be		
7	expended under such rules and		
8	regulations as may be pre-		
9	scribed by the board of public		
	works	50,000.00	50,000.00

Emergency Appropriation.

	Sec. 32-a. To meet emergencies		
2	that arise during the time that		
3	the legislature is not in session	50,000.00	50,000.00
4	This appropriation is to be disbursed on the order of the		
5	board of public works. Before any expenditures are made		
6	from this appropriation, the same shall be authorized by a		
7	recorded vote, showing the unanimous approval of all of the		
8	members of said board.		

9 It shall be unlawful for any state board, commission, officer
10 or employe to incur any liability during any fiscal year,
11 which cannot be paid out of the then current year appropria-
12 tion or out of funds received from the emergency appropria-
13 tion.

14 It shall be unlawful for any state board, commission, officer,
15 or employe to authorize or to pay any account or bill incurred
16 out of the appropriation for the following year, unless a
17 sufficient amount of the appropriation for the fiscal year, during
18 which the liability was incurred, was cancelled by expiration
19 or a sufficient amount of the appropriation remained unex-
20 pended at the end of the year.

21 Any member of a state board or commission, or any officer
22 or employe violating the provisions of this section shall be
23 personally liable for any debt unlawfully incurred or for any
24 payment unlawfully made.

New Capitol

Sec. 32-b. Buildings and land.... 250,000.00 250,000.00

2 "The foregoing appropriation shall be expended by and
3 under the direction of the governor in the manner following
4 and not otherwise: The governor shall secure new plans and
5 specifications for a capitol building and one or two office build-
6 ings and power plant as part of and in connection therewith, to
7 be erected on the Kanawha street capitol site lately secured by
8 the state in the city of Charleston, the total cost of which capitol
9 building, office building or buildings and power plant, includ-
10 ing architects' fees for plans and specifications and superin-
11 tendence of construction, complete and ready for occupancy,
12 shall not exceed five million dollars; and he shall let to con-
13 tract the construction of such office building or buildings and
14 the construction and equipment of such power plant; *provided*,
15 *however*, that such office building or buildings, complete and
16 ready for occupancy, together with the power plant, so to be
17 constructed and equipped, including all architects' fees for
18 plans and specifications and superintendence of construction,
19 shall not cost to exceed two million, five hundred thousand
20 dollars.

21 "The governor is hereby authorized and empowered to sell
22 all the real estate owned by the state of West Virginia on
23 Capitol and Summers streets and the capitol annex property on

24 Lee street, in the city of Charleston, for the best price and on
 25 the best terms available and to receive the proceeds thereof;
 26 such proceeds shall be paid into the state treasury and shall
 27 constitute a special fund, which is likewise hereby appropriated
 28 and shall, together with the foregoing appropriation, so far
 29 as necessary and not to exceed the sum of two million five
 30 hundred thousand dollars in the aggregate, be expended, upon
 31 the warrant of the governor, in and about the construction of
 32 said office building or buildings and the construction and equip-
 33 ment of said power plant.

Court Costs.

Sec. 32-c. To pay court costs
 2 and other expenses in defense of
 3 the two suits of the state of Ohio
 4 vs. state of West Virginia and
 5 the commonwealth of Pennsyl-
 6 vania vs. state of West Vir-
 7 ginia now pending in the
 8 United States supreme court,
 9 relating to the enforcement of
 10 chapter 71, acts of 1919, for
 11 furnishing natural gas for pub-
 12 lic use within the state..... 5,000.00

State Aid for Agricultural Fairs or Associations.

Sec. 32-d. To carry out the
 2 provisions of chapter 122, acts
 3 1921, providing for state aid
 4 for the encouragement of agri-
 5 cultural fairs, to be paid on ap-
 6 proval of governor and commis-
 7 sioner of agriculture 25,000.00 25,000.00

Publication of Delinquent Lists.

Sec. 33. To pay cost of pub-
 2 lishing list of delinquent corpo-
 3 rations as provided by sections
 4 134 and 136, chapter 32 of the
 5 code, payable on requisition of
 6 governor or auditor 800.00 800.00

JUDICIARY DEPARTMENT

Supreme Court of Appeals.

Sec. 34. Salary of the clerk....	1,500.00	1,500.00
2 Salaries of the law clerks.....	12,000.00	12,000.00
3 Per diem of the crier.....	900.00	900.00
4 Mileage of the supreme court		
5 judges	650.00	650.00
6 Current general expenses of the		
7 supreme court	2,000.00	2,000.00
8 Printing and binding supreme		
9 court reports	7,000.00	7,000.00
10 For expenses of conducting exam-		
11 ination of applicants to practice		
12 law, including traveling ex-		
13 penses and per diem of the		
14 members of the examining board,		
15 to be paid on the order of the		
16 president of the examining		
17 board	1,000.00	1,000.00

Circuit Courts.

Sec. 35. Compensation of spe-		
2 cial judges of the circuit courts	5,000.00	5,000.00
3 Mileage of the judges of the cir-		
4 cuit courts	2,500.00	2,500.00
5 Allowance for office rent, steno-		
6 graphic services, lighting and		
7 heating office as provided by		
8 chapter 86, Acts 1921.....	30,000.00	15,000.00
9 \$15,000.00 of the above \$30,000.00		
10 to be used for payment of bills		
11 incurred prior to July 1, 1923.		

SUB-SECTION "B."

All appropriations appearing under "Sub-Section 'B'" are
 2 payable only on the requisition and approval of the state board
 3 of control.

EXECUTIVE DEPARTMENT

*State Board of Control.**President's Office*

Sec. 36. Salary of—

2	Secretary to the president	1,800.00	1,800.00
3	Correspondence clerk	1,800.00	1,800.00
4	<i>Secretary's Office</i>		
5	Secretary	3,300.00	3,300.00
6	Stenographer	1,500.00	1,500.00
7	<i>Purchasing Department</i>		
8	Stenographer	1,500.00	1,500.00
9	Stenographer	1,500.00	1,500.00
10	Stenographer	1,500.00	1,500.00
11	Buyer	3,600.00	3,600.00
12	Assistant to buyer	2,100.00	2,100.00
13	<i>Treasurer's Department</i>		
14	Assistant audit clerk	1,800.00	1,800.00
15	Commodity clerk	2,040.00	2,040.00
16	Bookkeeper	2,400.00	2,400.00
17	Chief accountant	2,700.00	2,700.00
18	Stenographer to treasurer	1,500.00	1,500.00
19	Stenographer and requisition clerk	1,500.00	1,500.00
20	<i>Construction Department</i>		
21	Stenographer	1,320.00	1,320.00
22	Clerk, repairs and improvements	2,100.00	2,100.00
23	<i>Printing Department</i>		
24	Chief Clerk	2,750.00	3,000.00
24a	Assistant clerk	1,500.00	1,500.00
25	Messenger	1,200.00	1,200.00
26	Traveling expenses	2,500.00	2,500.00
27	Current general expenses	5,000.00	5,000.00

Huntington State Hospital.

Sec. 37. Current general ex-

2	penses	145,000.00	145,000.00
3	Repairs and improvements	12,500.00	12,500.00

Spencer State Hospital.

Sec. 38. Current general ex-		
2	penses	110,000.00 110,000.00
3	Repairs and improvements	12,500.00 12,500.00

Weston State Hospital.

Sec. 39. Current general ex-		
2	penses	225,000.00 225,000.00
3	Repairs and improvements	25,000.00 25,000.00
4	Buildings and land	6,000.00 -----
5	Chlorine plant and repairs to	
6	sewage disposal plant.	

State Colored Hospital for the Insane.

Sec. 40. Current general ex-		
2	penses	----- 25,000.00
3	Buildings and land	----- 125,000.00
4	To supplement former appropriations.	

Welch Hospital No. 1.

Sec. 41. Current general ex-		
2	penses	45,000.00 45,000.00
3	Repairs and improvements	10,000.00 10,000.00

McKendree Hospital No. 2.

Sec. 42. Current general ex-		
2	penses	25,000.00 25,000.00
3	Repairs and improvements	5,000.00 5,000.00
4	Buildings and land	5,000.00 5,000.00
5	To construct cottage	

Fairmont Hospital No. 3.

Sec. 43. Current general ex-		
2	penses	25,000.00 25,000.00
3	Treatment of girls committed to	
4	the West Virginia industrial	
5	home for girls who are afflicted	
6	with venereal diseases	5,000.00 5,000.00
7	Repairs and improvements	5,000.00 5,000.00
8	Buildings and land	4,000.00 4,000.00

State Tuberculosis Sanitarium.

Sec. 44. Current general ex-			
2	penses	125,00.00	125,000.00
3	Repairs and improvements	20,000.00	20,000.00
4	Buildings and land	20,000.00	20,000.00
5	To construct two new cottages.		

State Colored Tuberculosis Sanitarium.

Sec. 45. Current general ex-			
2	penses	25,000.00	25,000.00
3	Repairs and improvements	5,000.00	5,000.00

West Virginia Industrial School for Boys.

Sec. 46. Current general ex-			
2	penses	90,000.00	90,000.00
3	Repairs and improvements	25,000.00	25,000.00

West Virginia Industrial Home for Girls.

Sec. 47. Current general ex-			
2	penses	35,000.00	35,000.00
3	Repairs and improvements	10,000.00	10,000.00

West Virginia Children's Home.

Sec. 48. Current general ex-			
2	penses	15,000.00	15,000.00
3	Repairs and improvements	2,500.00	2,500.00

West Virginia Colored Orphan's Home.

Sec. 49. Current general ex-			
2	penses	12,500.00	12,500.00
3	Repairs and improvements	2,500.00	2,500.00

State Home for Aged and Infirm Colored Men and Women

Sec. 49-a. Current general ex-			
2	penses	7,500.00	7,500.00

Geological Survey

Sec. 49-a-1. Salaries			
2	Current general expenses.	16,600.00	19,100.00

Miscellaneous.

2	chasers for unused fertilizer		
3	tags which are now obsolete ac-		
4	count change in law and which were		
6	Agricultural Experiment Station;		
7	claims to be audited by state board		
8	of control and paid on requisition		
9	of said board	5,814.75	

State Board of Children's Guardians

Sec. 50. Salary of—			
2	Executive secretary	4,200.00	4,200.00
3	Five district agents at \$1,500.00		
4	each	7,500.00	7,500.00
5	Five district agents at \$1,200.00		
6	each	6,000.00	6,000.00
7	Supervisor	1,800.00	1,800.00
8	Supervisor	900.00	900.00
9	Chief clerk	1,800.00	1,800.00
10	Record clerk	1,500.00	1,500.00
11	Stenographer	900.00	900.00
12	Traveling expenses of district		
13	agents, supervisors and execu-		
14	tive secretary	10,100.00	10,100.00
15	Current general expenses	2,500.00	2,500.00

Florence Crittenton Home (Wheeling)

Sec. 51. For the care and			
2	treatment of wayward girls		
3	and their children, residents of		
4	West Virginia, who may become		
5	public charges, admitted under		
6	regulations prescribed by the		
7	state board of control.....	5,000.00	5,000.00

Point Pleasant Battle Monument Commission.

Sec. 52. Maintenance, Tu-Endie			
2	Wei Park	1,500.00	1,500.00
3	Repairs and construction of retain-		
4	ing wall Tu-Endie-Wei Park.....	2,500.00	2,500.00

State Board of Pharmacy.

	Sec. 53. Salaries and current		
2	general expenses	3,500.00	3,500.00

Berkeley Springs Board.

	Sec. 54. Current general and		
2	traveling expenses	500.00	500.00
3	Repairs and improvements.....	5,000.00	

Rumseyan Society.

	Sec. 55. For maintenance of		
2	grounds at Shepherdstown	500.00	500.00

State Hotel Inspector.

	Sec. 56. Current general and		
2	traveling expenses	1,000.00	1,000.00

Insurance on Public Buildings.

	Sec. 56-a. To pay for insur-		
2	ance on public buildings.....	50,000.00	50,000.00

Department of Public Safety.

	Sec. 58. To pay the expenses		
2	of the department of public		
3	safety, including the compensa-		
4	sation of the officers, employes		
5	and members, and all other ex-		
6	penses thereof, according to the		
7	provisions of chapter 12, acts of		
8	the extra session of the legislature		
9	of 1919 and amendments thereto..	350,000.00	300,000.00
10	Any member of the depart-		
11	ment of public safety who has been		
12	or may hereafter be injured while		
13	in the line of duty in the services		
14	of the state shall be entitled to re-		
15	ceive such compensation for such		
16	period of time as determined and		
17	fixed by the state board of control;		

17-a *provided, however*, such compensa-
 18 tion shall not exceed the rate of
 19 compensation received at the time
 20 of injury, payable out of the fore-
 21 going appropriation.

Drug Addicts.

Sec. 58-a. For care and treat-
 2 ment in state and other hospitals of
 3 drug addicts, residents of the state
 4 of West Virginia who may become
 5 public charges, said care and treat-
 6 ment to be subject to regulations
 7 to be prescribed by the state board
 8 of Control 3,000.00 3,000.00

Hospital Service.

Sec. 58-b. For treatment of la-
 2 borers and others who may become
 3 public charges, to be paid upon
 4 approval of the state board of
 5 control in the manner hereafter set
 6 forth 40,000.00 40,000.00
 7 October 1, 1923, and every three
 8 months thereafter any hospital,
 9 other than state hospitals, within
 10 the state and doing charity work,
 11 may file with the state board of
 12 control itemized bills for all
 13 charity cases treated during the
 14 preceding three months, said bills
 15 to be made out in the form pre-
 16 scribed by and at the rates fixed by
 17 said board. Sixty days shall be
 18 allowed for filing said bills after
 19 which time the board of control
 20 shall audit the same and pay all
 21 proper claims. If, however, the
 22 aggregate of all claims filed ex-
 23 ceeds one-fourth of the amount
 24 appropriated for the year then said

25 board shall apportion the said
 26 one-fourth appropriated so that
 27 each claim will receive its pro-
 28 rata share. (This appropriation
 29 to be expended on order of the
 30 state board of control, under
 31 rules and regulations prescribed
 32 by said board.)

Boys and Girls State Four-H Fair.

Sec. 58-d. Buildings and land...	50,000.00	50,000.00
2 For the purchase of land and 3 constructing buildings thereon for 4 the boys and girls State 4-H 5 Camp and Fair at Jackson's Mills, 6 established by the Board of Control 7 under Act of the Legislature of 8 1921.		

Huntington Armory.

Sec. 58-e. To purchase prop- erty now being rented by State for Armory purposes at Huntington from G. N. Biggs, in accordance with terms of agreements dated December, 1911, and December, 1915. To be paid on requisition of Board of Public Works not to exceed	32,660.00	
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West Virginia University.

Sec. 59. Salaries of officers, 2-3 teachers and employes	450,000.00	475,000.00
4 . The aggregate salaries of officers, 5 teachers and employes shall not 6 exceed the above appropriations, 7 unless approved by both the state 7-a board of education and state 7-b board of control.		
8 Current general expenses	150,000.00	150,000.00

9	Athletic expense	10,000.00	10,000.00
10	Purchase of books for Libraries.....	5,000.00	5,000.00
11	To pay salary and expenses of		
12	alumni secretary and field agent	5,000.00	5,000.00
13	Repairs and improvements	60,000.00	60,000.00
14	To purchase live stock for instruc-		
15	tion at West Virginia Uni-		
16	versity farm	5,000.00	
16-a	Buildings and land — Physical		
16-b	education building		200,000.00
17	The 1921 appropriation for Phys-		
18	ical Education Building is here-		
19	by changed to complete Chem-		
20	istry Building, and the Board		
21	of Control is hereby authorized		
22	to use the unexpended balance		
23	for Chemistry Building instead		
24	of Physical Education Build-		
25	ing.		

Extension Work.

1-9	Mining and industrial extension....	15,000.00	15,000.00
10	Agricultural, horticultural and		
11	home economic extension	80,000.00	80,000.00
12	4-H camp for boys and girls club		
13	work at Jackson's Mill.....	25,000.00	25,000.00
14	Community packing plant, current		
15	general expenses	3,000.00	3,000.00
16	Community packing plant, to pay		
17	additional professional service		
18	during the spraying and pack-		
19	ing season and for demonstra-		
20	ing use of new graders, presses,		
21	conveyers and other modern		
22	packing house equipment.....	4,000.00	4,000.00

Agricultural Experiment Station.

Sec. 60. Salaries of officers—

2	technical staff and labor.....	45,000.00	45,000.00
3	Current general expenses	25,000.00	25,000.00
4	Repairs and improvements	15,000.00	15,000.00
5	Reyman memorial farm	5,000.00	.....

Marshall College.

Sec. 61. Salaries of officers,		
2 teachers and employes	140,000.00	145,000.00
3 Current general expenses	30,000.00	30,000.00
4 Repairs and improvements	15,000.00	15,000.00
5 Building and land	50,000.00	50,000.00

Potomac State School (Keyser).

Sec. 62. Salaries of officers,		
2 teachers and employes	45,000.00	45,000.00
3 Current general expenses	15,000.00	15,000.00
4 Repairs and improvements	15,000.00	15,000.00
5 Farm equipment and improve-		
6 ments	2,500.00	2,500.00
7 Physical education	3,000.00	3,000.00

Fairmont State Normal School.

Sec. 63. Salaries of officers,		
2 teachers and employes	65,000.00	70,000.00
3 Current general expenses	15,000.00	15,000.00
4 Repairs and improvements	15,000.00	15,000.00
5 Buildings and land.....	30,000.00	30,000.00

Concord State Normal School.

Sec. 64. Salaries of officers,		
2 teachers and employes	54,000.00	58,000.00
3 Current general expenses	15,000.00	15,000.00
4 Repairs and improvements	12,500.00	12,500.00

West Liberty State Normal School.

Sec. 65. Salaries of officers,		
2 teachers and employes	30,000.00	30,000.00
3 Current general expenses	10,000.00	10,000.00
4 Repairs and improvements	10,000.00	10,000.00

Shepherd College State Normal School.

Sec. 66. Salaries of officers,		
2 teachers and employes	42,500.00	42,500.00
3 Current general expenses	8,000.00	8,000.00
4 Repairs and improvements	5,000.00	5,000.00

5 Buildings and land	2,500.00	2,500.00
6 To purchase land		

Glenville State Normal School.

Sec. 67. Salaries of officers,		
2 teachers and employes	46,000.00	48,000.00
3 Current general expenses	10,000.00	10,000.00
4 Repairs and improvements	7,500.00	7,500.00
5 To purchase and improve land for		
6 athletic field	7,500.00	7,500.00
7 Buildings and lands	30,000.00	30,000.00
8 To complete dormitory and physical		
9 education building		

New River State School (Montgomery).

Sec. 68. Salaries of officers,		
2 teachers and employes	40,000.00	40,000.00
3 Current general expenses	15,000.00	15,000.00
4 Repairs and improvements	12,500.00	12,500.00
5 Buildings and land	125,000.00	125,000.00
6 Physical education building and		
7 dormitory.		

West Virginia School for the Deaf and Blind.

Sec. 69. Salaries of officers,		
2 teachers and employes	65,000.00	65,000.00
3 Current general expenses	65,000.00	65,000.00
4 Repairs and improvements	20,000.00	20,000.00
5 Buildings and land	60,000.00	60,000.00

Colored Deaf and Blind School.

Sec. 70. Current general ex-		
2 penses	5,000.00	10,000.00
3 Buildings and land	30,000.00	
4 To supplement former years ap-		
5 propriations for building sepa-		
6 rate institution.		

West Virginia Collegiate Institute.

Sec. 71. Salaries of officers,		
2 teachers and employes	80,000.00	90,000.00
3 Current general expenses	35,000.00	40,000.00

4	Repairs and improvements	25,000.00	25,000.00
5	Buildings and land	125,000.00	125,000.00
6	To supplement appropriations for		
7	administration building and		
8	to remodel old building into		
9	boys' dormitory.		

Bluefield Colored Institute.

Sec. 72. Salaries of officers,			
2	teachers and employes	30,000.00	35,000.00
3	Current general expenses	7,500.00	7,500.00
4	Repairs and improvements	10,000.00	10,000.00
5	Buildings and land	50,000.00	50,000.00

Storer College.

Sec. 73-a. Salaries of officers,			
2	teachers and employes	6,000.00	6,000.00

Morgan Monument Commission

Sec. 73-b. To carry out the			
2	provisions of Senate Bill No. 368,		
3	acts legislature 1923, providing for		
4	erection of a monument to Morgan		
5	Morgan, the first settler within the		
6	present boundaries of West Va.....	2,500.00	2,500.00
7	The above appropriation to con-		
8	tinue in effect until the purpose has		
9	been carried out.		

Public School Commission

Sec. 73-c. To pay all expenses			
2	in connection with carrying out		
3	provisions of Senate bill No. 231,		
4	acts 1923 legislature	7,500.00	7,500.00

SUB-SECTION "C."

Sec. 74. All appropriations appearing under Sub-Section			
2	"C" are payable out of the general revenue of the state fund		
3	for the fiscal year ending June 30, 1923. Except appropria-		
4	tions in Section 78 which are payable for the years 1924 and		
5	1925.		

LEGISLATIVE DEPARTMENT

*Senate**Mileage*

2	Sec. 75. Mileage of members of the Senate for	
3	the initial and adjourned session of one thou-	
4	sand nine hundred and twenty-three	2,155.60
5	President of the Senate, two dollars per day	
6	extra for presiding seventy days	140.00
7	<i>Compensation and Per Diem of Other Elective Officers</i>	
8	Compensation of the Clerk of the Senate for ser-	
9	vices rendered prior to, and during the initial	
10	and adjourned sessions, and the period between	
11	the two sessions, while superintending the print-	
12	ing of Senate bills, and first extended session	2,560.00
13	Sergeant-at-arms of the Senate, one hundred and	
14	eighteen days at ten dollars per day	1,180.00
15	Doorkeeper of the Senate, seventy days at seven	
16	dollars per day	490.00
17	<i>Presidential Appointees</i>	
18	Private secretary to the President, seventy days	
19	at ten dollars per day	700.00
20	Chaplain of the Senate, seventy days at two dollars	
21	and fifty cents per day	175.00
22	Stenographer to the President, seventy days at ten	
23	dollars per pay	700.00
24	Clerks to the Committees on Finance, Judiciary	
25	and Enrolled Bills, seventy days at ten dollars	
26	per day each	2,100.00
27	Seven additional committee clerks, seventy days	
28	at eight dollars per day each	3,920.00
29	Clerk to Committee on Roads, ten days interim	
30	service with committee, at eight dollars per day	80.00
31	Stenographer to the Committee on Finance and to	
32	the Judiciary, seventy days at eight dollars per	
33	day each	1,120.00
34	Six floor stenographers, seventy days at eight dol-	
35	lars per day each	3,360.00
36	Four mailing clerks in document room, seventy	
37	days at eight dollars per day each	2,240.00

36	Assistant sergeant-at-arms, seventy days at eight	
37	dollars per day	560.00
38	Assistant doorkeeper, seventy days at five dollars	
39	per day	350.00
40	One mailing and banking page and two journal	
41	pages, seventy days at five dollars per day each	1,050.00
42	Mailing and Banking page, five days interim ser-	
43	vice	25.00
44	Five floor pages, seventy days at four dollars per	
45	day each	1,400.00
46	Two messengers, seventy days at four dollars per	
47	day each	560.00
48	One day watchman, one night watchman, two cloak	
49	room attendants and one toilet room attendant	
50	seventy days at five dollars per day each	1,750.00
51	One toilet room attendant, one hundred and eigh-	
52	teen days at five dollars per day	590.00
53	One elevator operator, fifty-five days at six dollars	
54	per day	330.00
55	Three assistants janitors, seventy days at five dol-	
56	lars per day each	1,050.00
56a	Clerk to the Committee on Finance, forty-six	
56b	days at ten dollars per day.....	460.00
57	<i>Clerk's Appointees</i>	
58	Compensation of chief assistant clerk, for services	
59	rendered during the initial and adjourned ses-	
60	sions, and the period between the two session	
60-a	and first extended session	1,770.00
61	Compensation of the supervisor of printing, official	
62	stenographer, abstract clerks, Senate and House	
63	bill record clerks, roll clerk and bill editor, at	
64	twelve dollars per day each	11,328.00
64a	Compensation of assistant bill editor, superin-	
64b	tendent of document room, two office stenog-	
64c	raphers, at ten dollars per day each.....	4,720.00
64d	Compensation of two journal clerks in charge of	
64e	journal printing at eight dollars per day, each	1,880.00
65	Compensation of eight general assistants, at eight	
66	dollars per day each	7,552.00
67	Compensation of messenger to the clerk at six dol-	
68	lars per day	708.00

69	Contingent fund of the Senate including the three	
69-a	extended sessions	15,000.00
70	To pay the following named persons and firms	
71	for supplies furnished and services rendered	
72	one thousand nine hundred and twenty-three	
73	session Senate.	
74	Mrs. Lily Brown, washing towels	35.00
75	Burlew Hardware Co., locks and screws	3.90
76	Capitol Office Supply Co.	21.00
77	Charleston Cut Flower & Plant Co., flowers (Mem-	
77-a	orial)	5.00
78	Chcspeake & Potomac Tel. Co., services and tolls	226.41
79	Coyle & Richardson, desk and table coverings,	
80	cushions etc.	119.07
81	W. B. Donnally Co., drayage	25.00
82	Ed. Field, drayage	60.00
83	Federal Publishing Co., thirty-two copies of code	742.40
84	Miss Margaret Gillilan, typewriter rental	5.00
85	Charleston Sign Co., signs	8.70
86	Jeffers & Richardson, carpentry and painting....	329.84
87	H. R. Judy, keys	16.55
88	Kanawha Novelty Works, repairs to doors and	
89	desks	51.75
90	Kanawha Ice Co., ice.....	42.59
91	Laird Office Equipment Co., rubber keys	8.00
92	S. Spencer Moore Co., desks, table and office sup-	
93	plies	952.30
94	Morgan Lumber & Manufacturing Co., nine desks	540.00
95	Mock Orange Mineral Water Co., water.....	110.10
96	Remington Typewriter Co., typewriter rental	56.00
97	Royal Typewriter Co., typewriter rental	4.00
98	Smith & Brooks, janitor supplies	2.75
99	John W. Sparkes Co., hardware	12.47
100	S. P. Spradling, carpentry	24.00
101	J. A. Thurston Electric Co., electrical material	
102	and labor	73.00
103	Tripure Water Co., water	20.70
104	Underwood Typewriter Co., typewriter rental	79.50
105	Walker Dry Goods Co., carpet, towels and lamps	271.20
106	Whitmore Electric Co., mazda lamps	1.30
107	Woodrum Home Outfitting Co., desks knobs .....	.60

108	Cal. F. Young Co., desks, chairs, office supplies	545.10
109	Robert Graves, janitor, service eighteen days at	
110	five dollars per day	90.00
111	Percy Harris, janitor service, seventeen days at	
112-14	five dollars per day	85.00
115	Henry Miller, janitor service, seventeen days at	
116	five dollars per day	85.00
117	Leroy Clemans, for ten days services in connec-	
118	tion with the removal of the furniture and	
119	equipment from the circuit court room of	
120	Kanawha county, and getting the Senate fur-	
121	niture and equipment installed for the open-	
122	ing of the initial session	120.00
123	Janitor of the Capitol, Senate's proportion of	
124	compensation for seventy days, based on per	
125	diem of assistant janitors, and thirteen days	
125-a	prior to initial session.....	207.50
126	Sundry labor, eight persons, for services rendered	
127	in removing equipment from circuit court	
128	room to city building	141.50
129	Compensation to Uriah Warner, court house jan-	
130	itor, for assisting in removing circuit court	
131	room equipment prior to occupancy of room	
132	by the Senate, for initial session, and re-in-	
133-4	stalling same after room had been vacated....	75.00
135	M. C. Kindelberger, sergeant-at-arms of Senate,	
136	expenses of committee and self, including	
137	purchase of floral emblem, attending funeral	
138	of Senator R. P. Shinn	71.13
139	Western Union Telegraph Co., messages.....	10.75

House of Delegates

2	Sec. 76. Mileage of members of the house of	
2	delegates	7,000.00
3	Per diem of the speaker of the house at \$2,00 per	
4	day for 108 days	216.00

Clerk's Appointees

2	Sec. 76-a. Compensation of three assistant	
2	clerks \$8.00 per day for one hundred and fifty-	
3	six days	3,744.00

Compensation of Other Elective Officers

Sec. 76-b. Compensation of clerk of house for

2	one hundred and fifty six days at \$12.50 per	
3	day	1,950.00
4	Compensation of the sergeant-at-arms of the	
5	house, one hundred and fifty-six days at \$8.00	
6	per day	1,248.00
7	Compensation of the doorkeeper of the house for	
8	one hundred and eight days at 6.00 per day....	648.00

9 *Speaker's Appointees*

10	Two committee clerks, 156 days at \$7.00 per day..	2,184.00
11	One committee clerk 118 days at \$7.00 per day..	826.00
12	Two committee clerks 108 days at \$7.00 per day..	1,512.00
13	Three committee clerks 70 days at \$7.00 per day..	1,470.00
14	Three committee clerks 55 days at \$7.00 per day....	1,155.00
14a	One committee clerk 93 days at \$7.00 per day.....	651.00
15	One page 125 days at \$4.00 per day.....	500.00
16	One page 120 days at \$4.00 per day.....	480.00
17	Two pages 85 days at \$4.00 per day.....	680.00
18	One page 81 days at \$4.00 per day.....	324.00
19	Two pages 111 days at \$3.00 per day.....	666.00
20	Two pages 108 days at \$3.00 per day.....	648.00
21	One page 15 days at \$3.00 per day.....	45.00
22	Contingent fund of the house of delegates, includ-	
23	ing the three extended sessions.....	5,000.00
24	Four cloak room attendants 108 days at \$4.00 per	
25	day	1,728.00
26	To pay J. M. Lynn for janitor service and four	
27	janitors at \$3.00 per day for 108 days.....	1,620.00

Miscellaneous

1-13	To pay the following named persons and firms	
14	for supplies furnished and services rendered	
15	one thousand nine hundred and twenty-three	
16	session house of delegates:	
17	W. H. C. Curtis (service in equipping house).....	75.00
18	Jno. W. Sparkes Co. (misc. hdwe. supplies	10.57
19	Underwood Typewriter Co. (rental of two type-	
20	writers)	45.00

21	Royal Typewriter Co. (to purchase two type-	
22	writers, No. 669486 and No. 674365).....	166.06
23	Remington Typewriter Co. (rental of four type-	
24	writers)	56.00
25	J. M. Gates Sons Co. (shades).....	2.15
26	Jeffers & Richardson (carpenter work).....	83.51
27	Mock Orange Mineral Water Co. (water).....	131.80
28	Kanawha Novelty Works (locks and keys).....	25.10
29	Cal. F. Young Co. (chairs, stationery, etc.).....	582.80
30	S. Spencer Moore Co. (supplies)	113.20
31	Ed. Field (hauling)	5.00
32	Smith & Brooks (hardware supplies).....	2.75
33	S. P. Spradling (carpentry work).....	25.00
34	Kanawha Ice Co. (ice)	58.19
35	H. C. Deisher (to reimburse for rental paid on	
36	one typewriter for finance committee. Amount	
37	paid to Underwood Typewriter Co.).....	12.00
38	M. S. Hodges (services)	200.00
39	J. Coleman Simpson (services rendered as per	
40	joint resolution, legislature one thousand nine	
41	hundred and nine)	500.00
42	Jarrett Printing Co. (proof reading, etc.)	3,864.00
43	W. A. Riffe (to reimburse for amount paid for	
44	strings, etc.)	2.00
45	C. & P. Telephone Co. (services No. 4412 & 4909)..	35.04
46	J. H. Vickers Co. (labor)	12.75
47	S. K. Somerville (expenses attending funeral of	
48	Senator Shinn)	7.46
49	Eugene Slaughter (expenses attending funeral of	
50	Senator Shinn)	7.46
51	Wood Taylor (expenses attending funeral of Sena-	
52	tor Shinn)	11.96
53	Kanawha county court (water, light and heat)	1,500.00
54	J. H. Goshorn (swearing in ninety-three members	
55	of the house at fifty cents).....	46.50
56	<i>Compensation and Per Diem of Elective Officers and At-</i>	
57	<i>taches of the Senate, Second Extended Session and</i>	
58	<i>Four Days of Third Extended Session.</i>	
59	President of the Senate \$2.00 per day extra for	
60	presiding fourteen days	28.00
61	Clerk of the Senate, fourteen days	280.00
62	Sergeant-at-arms of the Senate, fourteen days	140.00

63	Doorkeeper of the Senate, fourteen days	98.00
64	<i>Presidential Appointees.</i>	
65	Chaplain of the Senate, fourteen days	35.00
66	Stenographer to the president, fourteen days	140.00
67	Clerk to committee on Enrolled bills, fourteen days	140.00
67a	Stenographer to committee on finance, fourteen	
68	days	112.00
69	Four floor stenographers, fourteen days	448.00
70	Mailing and banking page, fourteen days	70.00
71	Two floor pages, fourteen days	112.00
72	One day watchman and one night watchman, and	
73	one toilet room attendant, fourteen days.....	210.00
74	Three assistant janitors, fourteen days	210.00
75	<i>Clerk's Appointees.</i>	
76	Chief assistant clerk, fourteen days	210.00
77	Supervisor of printing, abstract clerks, bill record	
78	clerk, roll clerk and bill editor, fourteen days	1,008.00
79	Superintendent of document room and two office	
80	stenographers, fourteen days	420.00
81	One printing clerk, fourteen days	112.00
82	Two general assistants, fourteen days.....	224.00
83	Messenger to the clerk	84.00
84	<i>Compensation and Per Diem of Elective Officers and At-</i>	
85	<i>taches of the Senate for the Third Extended Session</i>	
86	<i>less four days included in Second Extended</i>	
87	<i>Sessions.</i>	
88	President of the Senate \$2.00 per day extra for	
89	presiding eleven days	22.00
90	Clerk of the Senate twenty-four days	480.00
91	Sergeant-at-arms of the Senate twenty-four days	240.00
92	Doorkeeper of the Senate twenty-four days	144.00
93	<i>Presidential Appointees</i>	
94	Chaplain of the Senate eleven days	27.50
95	Stenographer to the President eleven days	110.00
96	One day watchman and one night watchman eleven	
97	days	110.00
98	One janitor twenty-four days	120.00
99	Two assistant janitors and one elevator operator	
100	eleven days	165.00
101	One janitor fifteen days	75.00

102	<i>Clerk's Appointees</i>	
103	Chief Assistant Clerk twenty-four days	360.00
104	Supervisor of printing, bill editor, abstract clerk	
105	clerk and roll clerk twenty-four days	1,152.00
106	Superintendent of document room and one sten-	
107	ographer twenty-four days	480.00

Legislative Printing and Stationery

Sec. 77. To pay the cost of legislative printing and stationery, the appropriation to be available for the year ending June thirtieth, one thousand nine hundred and twenty-three. If the work is not completed prior to June thirtieth, one thousand nine hundred and twenty-three, then the appropriation shall continue in effect until completed.....

	50,000.00
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Salaries of Members of the Legislature

	1924	1925
Sec. 78. Salaries of members of		
2 the senate	15,000.00	15,000.00
3 Salaries of members of the house		
4 of delegates	47,000.00	47,000.00
5 To pay John T. Harris for editing, compiling and		
6 publishing the "West Virginia Legislative		
7 Hand Book and Manual and Official Register"		
8 under the same provisions as to distribution		
9 as were adopted in the session of one thousand		
10 nine hundred and twenty-one, including all		
11 expenses incurred in the preparation of mat-		
12 ter, clerical hire, stenographic service and proof		
13 reading, and for shipping charges in connection		
14 with the distribution of the book.		
15 For the year ending June thirty, one thousand		
16 nine hundred and twenty-four		8,000.00
17 For the year ending June thirty, one thousand		
18 nine hundred and twenty-five.....		12,000.00
19 One-half of the above amounts to be paid by the		
20 auditor to the editor and compiler, upon a cer-		
21 tificate from the superintendent of public		
22 printing that the "copy" for the "Hand Book"		

- 23 has been turned over to the public printer, and
 24 the other half upon a similar certificate that
 25 the complete editions have been delivered.

SUB-SECTION "D."

Sec. 79. All appropriations appearing under sub-section
 2 "D" are payable out of the general revenue of the state fund
 3 for the fiscal year ending June 30, 1923.

Miscellaneous Appropriations.

2	Sec. 80. Supplemental appropriation to pay for insurance on public buildings.....\$	30,000.00
3	Supplemental appropriation to pay compensation	
4	of special judges of the circuit courts for re-	
5	mainder of year ending June 30, 1923.....	2,500.00
6	Supplemental appropriation for militia to pay	
7	rents for remainder of year ending June 30,	
8	1923	12,830.00
9	Supplemental appropriations for printing and	
10	binding supreme court reports for remainder of	
11	year ending June 30, 1923	4,000.00
12	To pay part of the expenses incurred in the prose-	
13	cution, of cases arising from the invasion from	
14	Pennsylvania, in July, 1922, known as the Clif-	
15	tonville riot. This appropriation to be paid	
15-a	on the requisition of the governor and to con-	
16	tinue in effect until the purpose has been car-	
17	ried out	25,000.00
18	Supplemental appropriation to pay criminal	
19	charges, including transportation of prisoners	
20	and extradition of criminals and fugitives, for	
21	remainder of year ending June 30, 1923.....	150,000.00
22	To pay the assessments against the state for paving	
23	of Duffy street, city of Charleston.....	4,266.60
24	To reimburse the Kanawha Banking and Trust	
25	Company of Charleston for payment of three	
26	checks which had been treated as cancelled ac-	
27	count not being presented within three years	
28	from date of issue	11.12
29	To pay Harvey M. Scott, balance due to January	
30	31, 1923, for services as supreme court crier....	96.00

31	To reimburse S. J. Price for repairs to Biggs	
32	Armory, Huntington, West Virginia, which re-	
33	pairs were made during the time that said	
34	Price subleased the buildings from the state	
35	of West Virginia.....	2,095.97
36	To pay Mrs. Hope McDonald, widow of Harley A.	
37	McDonald, who died in 1913 while in the na-	
38	tional guard service of this state of West Va.....	4,000.00
38-a	This appropriation to continue in effect until the	
38-b	purpose of the same has been carried out and to	
38-c	be paid at such times and in such amounts as	
38-d	approved by the state auditor.	
39	To pay E. W. Lilly of Summers	
40	county for services and expenses	
41	prohibition department, 1921....	1,664.19
42	To pay S. C. Stover of Raliegh	
43	county, for services and expenses	
44	prohibition department, 1920	
45	and 1921	500.00
46	To pay H. E. Love for upkeep, re-	
47	pairs and maintenance of auto-	
48	mobile used by prohibition de-	
49	partment	425.00
50	To reimburse the sheriff of Mason	
51	County for money expended	
52	under an order of the circuit	
53	court in bringing witnesses into	
54	court to testify in the case,	
55	State vs. Holly Griffith.....	450.72
56	To pay C. & O. Railway Company	
57	for special train services or-	
57a	dered by Governor Cornwell,	
58	during industrial disturbance	
59	Logan, Boone and Kanawha	
60	Counties, September and Oc-	
61	tober, 1919	2,670.56
62	The State Board of Control is here-	
63	by authorized to pay out of cur-	
64	rent year appropriation for	
65	"hospital service" to the city	
66	hospital of Spencer \$390.00	
67	covering bills which were re-	

68	ceived by said board two days	
69	after time fixed by law for	
70	filing.	
71	To pay I. D. Van Meter, of Jeffer-	
72	son County, for tubercular cat-	
73	tle killed under supervision of	
74	State veterinarians	800.00

SUB-SECTION "E."

Sec. 81. All appropriations appearing under sub-section 2 "E" are payable out of the general school fund of the state.

Department of Education.

	1924	1925
Sec. 82. Salary of superin-		
2 tendent of free schools	\$ 5,000.00	\$ 5,000.00
3 Salary of assistant superintendent	3,600.00	3,600.00
4 Salary of chief clerk	3,000.00	3,000.00
5 Salary of supervisor of Negro		
6-7 schools	3,000.00	3,000.00
8 Stenographers and clerks	15,000.00	15,000.00
9 Inspection and supervision of high		
10 schools	3,300.00	3,300.00
11 Inspection and supervision of rural		
12 schools	6,000.00	6,000.00
13 Expenses for conducting uniform		
14 examinations, including salary		
15 of supervisor of examinations....	12,500.00	12,500.00
16 Printing, binding and stationery....	10,000.00	10,000.00
17 Expenses of state superintendent..	500.00	500.00
18 Current general expenses	5,500.00	5,500.00
19 Traveling and other necessary ex-		
20 penses of inspectors and super-		
21 visors of colored schools, rural		
22 schools high schools, confer-		
23 ences and general expenses	7,500.00	7,500.00
24 Salaries, traveling expenses and		
25 other necessary expenses con-		
26 nected with sanitary inspection;		
27 the institution and carrying out		

28	of system of physical educa-		
29	tion; the preparation, inspection		
30	and approval of plans for school		
31	buildings and for the teaching of		
32	thrift and Americanization.....	10,000.00	10,000.00

State Board of Education.

34	Salaries of six members of state		
35	board of education	6,000.00	6,000.00
36	Salaries of two advisory members..	2,000.00	2,000.00
37	Expenses of members of state		
38	board of education	2,500.00	2,500.00
39	Expenses of advisory members	600.00	600.00
40	Salary and expenses of secretary		
41	and director	5,000.00	5,000.00
42	Salaries of clerks and stenographers	1,800.00	1,800.00

General Expenses.

43	State aid for classified high		
44	schools in accordance with the		
45	provisions of general law.....	150,000.00	150,000.00
46	Provided, however, if the aggre-		
47	gate amount in the general		
48	school fund is not sufficient to		
49	supplement in full all elemen-		
50	tary schools, together with aid		
51	to high schools, then after sup-		
52	plementing all elementary		
53	schools the balance shall be ap-		
54	portioned to the high schools.		
55	Salaries of county superintendents	92,000.00	92,000.00
56	Compensation and expenses of insti-		
57	tute instructors	15,000.00	15,000.00
58	To assist in rehabilitation work in		
59	co-operation with the Federal		
60	government, payable on order		
61	of the state board of education		
61-a	and the state board of control..	17,500.00	17,500.00
62	Vocational education, payable on		
63	order of the State Board of		
64	Education and State Board of		
65	Control	30,000.00	30,000.00

66 The Auditor shall credit all delin-
 67 quent taxes due the state to the
 68 fund to which they belong, and
 69 the cost of certification of sale
 70 shall be paid out of the fund to
 71 which they are credited, and
 72 there is hereby appropriated so
 73 much as may be necessary for
 74 the payment of the same, not to
 75 as follows (payable on requi-
 76 sition of the Auditor):

76a *Land Department:*

76b Salary of—

76c Chief land clerk.....	3,000.00	3,000.00
76d Assistant land clerk.....	2,100.00	2,100.00
76e Stenographer	1,500.00	1,500.00
76f Typist	1,200.00	1,200.00
76g Certificate clerk	1,500.00	1,500.00
76h Current expenses	700.00	700.00

77 For the publication of the above
 78 delinquent taxes, there is hereby
 79 appropriated so much as may be
 80 necessary at the rate fixed by
 81 general law, payable on requis-
 82 ition of the Auditor.

83 In addition to the foregoing appro-
 84 priations the balance of the re-
 85 cepts for each year of said fund
 86 is hereby appropriated for sup-
 87 plemental aid to schools in ac-
 88 cordance with the provision of
 89 general law.

90 *Deficiency Appropriation.*

91 To pay balance due newspapers for
 92 publishing the list of delinquent
 93 lands sold to the State the dif-
 94 ference between the amount
 95 paid under the provisions sec-
 96 tion 77, Chapter 1, Acts 1921,
 97 extraordinary session, and the
 98 rate for such publication as pro-
 99 vided by Chapter 153, Acts 1921,

100	for remainder of year ending		
101	June 30, 1923.....	12,000.00	.....
102	The above appropriation to be		
103	available for such payments for		
104	the fiscal years 1922 and 1923		
105	and to be paid upon requisition		
106	of the auditor.		

SUB-SECTION "F".

Sec. 83. All appropriations appearing under Sub-Section 2 "F" are payable out of the State Road Fund of the State.

STATE ROAD COMMISSION.

Automobile Bureau.

Sec. 84. For cost of license			
2	tags, storage, postage, freight,		
3	express and cartage on same.....	60,000.00	80,000.00
4	Salaries of clerks, stenographers		
5	and field agents, including ex-		
6	penses of field agents.....	55,500.00	72,500.00
7	Current general expenses.....	30,500.00	40,000.00
7a	Expense of enforcement of the		
7b	provisions of an act of the 1923		
7c	Legislature relating to motor		
7d	vehicles	14,400.00	19,600.00
8	<i>Administration Expenses.</i>		
9	Salaries of commissioners.....	22,500.00	22,500.00
10	Salaries of engineers, clerks, sten-		
11	ographers, property, accounting,		
12-13	recording and other assistants..	155,900.00	164,900.00
14	Bridge designs, plans and records		
15	and testing material	71,500.00	71,500.00
16	Traveling expenses	20,000.00	20,000.00
17	Inspection and supervision of war		
18	material	5,000.00	5,000.00
19	Office rent including heat, light,		
20	water and janitor service.....	18,000.00	18,500.00
21	Furniture and equipment	15,000.00	15,000.00
22	Current general expenses.....	23,000.00	23,000.00
22-a	To carry out the provisions of		
22-b	Senate Bill No. 375, 1923 legis-		
23	lature	12,500.00	12,500.00

23-a	To pay all expenses in connection		
23-b	with carrying out the pro-		
23-c	visions of House Bill No. 14,		
23-d	Acts 1923, Legislature, relating		
23-e	to tax on gasoline payable		
23-f	on requisition of the state tax		
23-g	commissioner	7,500.00	7,500.00
23h	For complying with and carrying		
24	out the provisions of section 83,		
25	good roads acts, one thousand		
26	nine hundred and twenty-one,		
27	relating to refunds and refund-		
28	ing moneys erroneously paid		
29	through the commission into the		
30	treasury such sums are hereby		
31	appropriated as may be erron-		
32	ously paid.		
32-a	For refunding license fees such		
32-b	sums are hereby appropriated		
32-c	as may be necessary to carry		
32-d	out section 1 of chapter 114,		
32-e	acts 1921.		
33	In addition to the foregoing appro-		
34	priations the balance or residue		
35	of the annual receipts of the		
36	state road fund are hereby ap-		
37	propriated for the payment of		
38	interest on and principal of out-		
39	standing road bonds, for main-		
40	tenance and construction and		
41	re-construction of state roads,		
42	in accordance with the provis-		
43	ions of the good roads act of		
44	one thousand nine hundred and		
45	twenty-one legislature, sections		
46	15, 23 and 72.		
47	Supplemental appropriation to		
48	pay current general expenses, for		
49	year ending June 30, 1923.....	12,000.00	
50	Supplemental appropriation for		
51	furniture and equipment, for re-		

52	mainder of year ending June 30,	
53	1923	3,000.00
54	To pay Dr. A. T. Post of Clarks-	
55	burg, for damages to automobile	
56	in collision with a state road	
57	commission truck available for	
58	year ending June 30, 1923.....	1,844.25
59	To pay claims against the state	
60	road commission resulting from	
61	injuries or damages, for remain-	
62	der of year ending June 30,	
63	1923	836.78

SUB-SECTION "G".

Sec. 85. All appropriations appearing under Sub-Section 2 "G" are payable out of the special license fees authorized 3 by section 15, Chapter 8, Acts of 1915 (regular session) and 4 amendments thereto.

*Public Service Commission.**Secretary's Office*

Sec. 86. Salary of—

2	Secretary	6,000.00	6,000.00
3	Assistant secretary and rate clerk	3,300.00	3,300.00
4	Stenographer	1,800.00	1,800.00
5	Stenographer	1,500.00	1,500.00
6	Stenographer	1,500.00	1,500.00
7	<i>Statistical Department</i>		
8	Chief statistician	4,200.00	4,200.00
9	Assistant statisticaian	3,300.00	3,300.00
10	Stenographer	1,500.00	1,500.00
11	<i>Engineering Department</i>		
12	Chief engineer	3,600.00	3,600.00
13	Assistant engineer	3,120.00	3,120.00
14	Stenographer	1,800.00	1,800.00
15	Stenographer	1,500.00	1,500.00
16	Inspector	1,680.00	1,680.00
17	Inspector	1,920.00	1,920.00
18	Railroad inspector	1,800.00	1,800.00
19	Reporter	3,300.00	3,300.00

20	Reporter	2,400.00	2,400.00
21	Attorney	5,000.00	5,000.00
22	<i>Commissioner's Office</i>		
23	Stenographer	1,500.00	1,500.00
24	Stenographer	1,500.00	1,500.00
25	Stenographer	1,500.00	1,500.00
26	Messenger	300.00	300.00
27	Current, general and traveling ex-		
28	penses	25,980.00	25,980.00

SUB-SECTION "H".

Sec. 87. All appropriations appearing under Sub-Section

2 "H" are payable out of the fund created by Chapter 9 Acts
3 of 1915 (Extraordinary session) and amendments thereto.

Workmen's Compensation.

Sec. 88. Current general ex-

2	penses	\$140,000.00	\$140,000.00
3	To pay the expense of an audit of		
4	the Workmen's Compensation		
5	Department, so much as may be		
6	necessary, not to exceed	5,000.00	5,000.00
7	Audit to be made in accordance		
8	with the provisions of Chapter		
9	33, Acts 1908, and the appro-		
10	propriation to be disbursed on the		
11	requisition of the Chief Inspec-		
12	tor of Public Offices.		

SUB-SECTION "I".

Sec. 89. All appropriations made by general law payable
2 out of "special revenue" are hereby authorized payable out
3 of the special revenue collected for the specific purposes.

SUB-SECTION "J".

Sec. 90. For refunding overpayments made into the treas-
2 ury on account of taxes, licenses, fines and commissions, to
3 paid out of the fund into which they were paid, such an
4 amount as may be necessary for such purpose is hereby appro-
5 priated.

Sec. 91. The appropriations herein made to or for any
2 state board or institution shall be drawn from the treasury
3 upon the requisition of the proper officers thereof made upon
4 the Auditor at such times and in such amounts as may be nec-
5 essary for the purposes for which such appropriations are
6 made; and the Auditor shall pay the amount named in any
7 such requisition at such time and in such installments as shall
8 be necessary for the purposes for which any such appropria-
9 tion is made. But all requisitions for appropriations for new
10 buildings and substantial betterments, except such as are under
11 control of the Board of Control, shall be accompanied by the
12 architect's estimate that the amount named in such requisi-
13 tion is needed for immediate use. The Auditor shall not issue
14 his warrants to pay any money out of the state treasury unless
15 the same is needed for present use.

16 The members of all state boards or commissions, unless a
17 different rate of compensation is provided by law, shall be
18 allowed four dollars per day for each day necessarily employed
19 as such (including the time spent in going to and returning
20 from the place of meeting) and the actual and necessary ex-
21 penses incurred by them in the discharge of their duties, and
22 no mileage shall be paid. But before payment of any such
23 member of any such compensation or expenses, he shall make
24 up in duplicate and certify to its correctness an itemized state-
25 ment of the number of days spent (giving dates) and of the
26 expenses, which statement shall be filed with the secretary
27 or clerk of the institution, the original whereof the secretary
28 or clerk shall file or preserve in his office, and the duplicate
29 he shall at once forward to the Auditor. If any such mem-
30 ber shall willfully make a greater charge for such services
31 or expenses than truth justifies, he shall be guilty of embez-
32 zlement and punished accordingly.

Sec. 92. All printing, binding, printing paper and sta-
2 tionery for the state superintendent of free schools shall be
3 paid for out of the general school fund. No printing, binding
4 or printing paper or stationery for the following named boards,
5 officers or institutions shall be paid for out of the appropria-
6 tion for public printing, public binding, or for supplying paper
7 or stationery, but shall be paid for out of the appropriations
8 therefor herein made, or out of the expense fund or current
9 general expense fund thereof, namely:

10 The public service commission, the state road commission,
11 the workmen's compensation department, the game and fish
12 commission, the board of dental examiners, state vaccine agents,
13 commissioners of pharmacy, state board of examiners, state
14 board of embalmers, Welch hospital No. 1, McKendree hospital
15 No. 2, Fairmont hospital No. 3, state fire marshal, normal
16 schools, schools for the deaf and blind, the university and all
17 its branches, including the experiment station, Huntington,
18 Weston and Spencer state hospitals, industrial school for boys,
19 the West Virginia collegiate institute and the industrial home
20 for girls, the geological survey, Berkeley Springs board, state
21 colored hospital for insane, state tuberculosis sanitarium, state
22 colored tuberculosis sanitarium, children's homes, the Potomac
23 state school, the New River state school, Bluefield colored
24 institute, and all private schools or hospitals receiving state
25 appropriations.

26 Such boards, officers and institutions, except the state super-
27 intendent of free schools, that are herein required to pay for
28 their own printing, stationery and printing paper and binding,
29 have authority to procure the same, or have the same done
30 on requisition of the superintendent of public printing, or
31 may buy such printing and stationery, or have such printing
32 and binding done on competitive bids, under such rules as may
33 be made by the commissioners of public printing.

34 When stationery or printing is procured from the super-
35 intendent of public printing or printing and binding are done
36 on requisition of his office, by any such board, officers or insti-
37 tutions, the superintendent of public printing as to such print-
38 ing, binding, stationery and printing paper, shall certify the
39 cost thereof to the auditor, stating to what officer, board or
40 institution the same was furnished, and the auditor shall charge
41 against the proper fund or appropriation of such officers, insti-
42 tution or board the amount thereof, and credit such amount
43 to the proper appropriations made by this act for public print-
44 ing, binding, stationery and printing paper. *Provided*, that
45 the annual or biennial reports required by law to be made to
46 the governor by such boards, officers and institutions shall be
47 printed and paid for out of the appropriation for public print-
48 ing, public binding and for supplying printing paper and sta-
49 tionery, but all such reports shall be typewritten, or prepared
50 in such a manner that the same shall be legible and suitable

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

Sec. 93. No sum of money shall be paid out of the treasury
2 for the years ending June thirtieth, one thousand nine hundred
3 and twenty-four, and one thousand nine hundred and twenty-
4 five, beyond the amounts hereby appropriated, unless the same
5 be provided for by constitution or some general law, and no
6 money shall be hereafter drawn from the treasury to pay the
7 salary of any officers or employees before their services have
8 been rendered.

Sec. 94. Upon the adjournment of this session of the legis-
2 lature, the clerk of the house and the clerk of the senate, shall
3 jointly make up and furnish the auditor and treasurer, without
4 delay, a certified copy of this and all other acts carrying appro-
5 priations.

Sec. 95. Appropriations made by the 1921 legislature for
2 buildings and land, for constructing new mansion; West Vir-
3 ginia Collegiate Institute; Bluefield Colored Institute; West
4 Virginia Colored Orphans' Home; Colored deaf and blind
5 school; industrial home for colored girls; Spencer state hospital;
6 colored hospital for insane, Marshall College, Concord State
7 Normal school and West Virginia University, except \$100,000.00
8 of appropriation for physical education building, remaining
9 unexpended May 2, 1924, are hereby continued in effect and
10 made available for expenditure during such time as would be
11 authorized by law had said appropriations been originally made
12 by this appropriation bill.

Resolutions

COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 2.

(Adopted January 22, 1923.)

Authorizing the payment of balance of salary due Hon. F. N. Hays, deceased, to his widow.

SENATE JOINT RESOLUTION NO. 3.

(Adopted January 24, 1923.)

Expressing the sense of the legislature that the Towner-Sterling Educational bill should pass Congress.

Resolved by the Legislature of West Virginia:

That it is the sense of a majority of the members of each branch of the legislature of West Virginia that the bill for the advancement of public education in the United States, known as the Towner-Sterling bill, should be passed by Congress in substantially the form in which it has been considered by the Committee on Education of the House of Representatives.

That a duly authenticated copy of this resolution be sent by the Secretary of State to each Senator and Representative from West Virginia in the Congress of the United States.

SENATE JOINT RESOLUTION NO. 13.

(Adopted January 22, 1923.)

Authorizing the auditor to draw his warrants upon the treasurer for mileage of members of the legislature.

Resolved, That the Governor is hereby authorized to appoint, That in advance of the passage of the appropriation bill, the auditor is hereby authorized and directed to draw his warrants upon the treasurer for the mileage of members of the legislature, at this initial session, upon proper requisitions drawn by the Clerk of the Senate and the sergeant-at-arms of the House of Delegates.

SENATE SUBSTITUTE FOR HOUSE JOINT
RESOLUTION NO. 13.

(Adopted January 24, 1923.)

Relative to printing of bills and the distribution thereof.

Resolved by the Legislature of West Virginia:

That the standing committees of the Senate and House of Delegates be and they are hereby authorized and directed to have printed during the interim period eight hundred copies of Senate and House bills of a general nature that they, in their judgment, may deem it advisable to print, four hundred and fifty copies of which shall be laid aside by the public printer for binding in the volumes of the Senate bills and House bills, and one hundred and thirty copies used in the individual files of the two houses. Out of the remainder the clerks are directed to mail to the members of their respective houses two copies of each of such bills, and if additional copies are required, they shall be furnished by the clerks upon request. The chairmen are requested to inform the Clerks, as early as practicable, of the several bills that their committees have designated to have printed and if there is a failure to so designate, then the clerks are to exercise their own judgment in the printing of bills referred to any committee failing to report thereon.

It shall be the duty of the Clerks to see to it that where duplicate bills have been introduced in the two houses, or in either house, that but one of such bills shall be printed. No charters, or local bills, are to be printed during the interim period; be it further

Resolved, That the expense of mailing bills and journals by the Clerks of the respective houses to the members, and to others upon request, be paid out of the contingent funds of such houses, by the auditor, upon proper requisitions drawn by the clerk of the Senate and sergeant-at-arms of the House of Delegates, and the filing of an itemized statement of such expense by the respective Clerks.

SENATE JOINT RESOLUTION NO. 17.

(Adopted January 23, 1923.)

Authorizing the Governor to appoint a committee to confer with representatives of the federal government in an effort to secure the location in West Virginia of the summer White House, the construction of which is in contemplation.

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

WHEREAS, The United States government has accepted a bequest of two hundred thousand (\$200,000.00) dollars under the will of Wilson J. Leakins of Baltimore, Maryland, for the purpose of constructing or purchasing a summer White House for the use of the President of the United States, which must be located within fifty miles of the National Capital; and

WHEREAS, It is suggested that the vicinity of Harpers Ferry, Jefferson county, West Virginia, is an ideal location for said White House from every standpoint, and especially convenience of location, natural beauty and historic interest; therefore, be it

Resolved, That the Governor is hereby authorized to appoint, within twenty days from the adoption of this resolution, a committee of five citizens of this state, whose duty it shall be to confer with representatives of the United States government having said matter in charge, and to use their best efforts to secure the location and construction of said summer White House at or near Harper's Ferry in this state. The members of said committee shall serve without salary, but their actual traveling expenses may be paid by the Governor out of his contingent fund.

SENATE JOINT RESOLUTION NO. 25.

(Adopted April 13, 1923.)

Accepting the provisions of the act of congress, entitled "An act for the promotion of welfare and hygiene of maternity and infancy, and for other purposes," and known as the Sheppard-Towner act.

SENATE JOINT RESOLUTION NO. 27.

(Adopted March 28, 1923.)

Making Barnes code of one thousand nine hundred and twenty-three *prima facie* evidence of the laws contained therein.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted January 10, 1923.)

Raising a Joint Committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee be appointed, two by the President of the Senate and three by the Speaker of the House of Delegates, to wait upon the Governor and inform him that the legislature is organized with a quorum present and is ready to receive any communication he may be pleased to present.

SENATE CONCURRENT RESOLUTION NO. 3.

(Adopted January 24, 1923.)

Relative to the adjournment of the legislature for the constitutional recess and to the re-assembling of the legislature after said recess and fixing the date for said adjournment and said re-assembling.

WHEREAS, section twenty-two of article six of the constitution of West Virginia as amended at the general election held on the second day of November, one thousand nine hundred and twenty, requires that after the legislature has been in session for a period not exceeding fifteen days, a recess shall be taken until the Wednesday after the second Monday in March following; now, therefore, be it

Resolved by the Senate, the House concurring therein:

That the legislature of West Virginia shall adjourn for said recess on Wednesday, January twenty-fourth, one thousand nine

hundred and twenty-three and shall re-assemble at the hour of two P. M. on Wednesday, March fourteenth, one thousand nine hundred and twenty-three.

SENATE CONCURRENT RESOLUTION NO. 4.

(Adopted January 24, 1923.)

Raising a joint committee to wait upon the Governor.

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That a joint committee of five, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and two on the part of the Senate, to be appointed by the President thereof, be appointed for the purpose of notifying the Governor that the legislature is ready to recess until March fourteenth next, and two on the part of the Senate, to be appointed by the President

SENATE CONCURRENT RESOLUTION NO. 5.

(Adopted March 26, 1923.)

Providing for the introduction of a bill as follows:

“A Bill to make the keeping, maintaining or exhibiting of slot machines or machines of like kind, or other similar devices, unlawful and providing punishment therefor.”

SENATE CONCURRENT RESOLUTION NO. 6.

(Adopted April 13, 1923.)

Requesting the state road commission to furnish certain information.

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That the state road commission be and is hereby required to furnish to the Senate and House of Delegates, as soon as may be, and not later than the twenty-first day of April, one thousand nine hundred and twenty-three, a full and complete report, showing:

1. The names of all officers and employees of said commission and the county in which each resided at the time of his or her appointment. The classification of said officers and employees into the different departments, showing specifically each of the different district divisions and the officers and employees engaged therein.

2. The salary or allowance paid to each officer and employee, showing particularly the difference in salary, if any, paid the same class of officers or employees in different counties and setting forth their reason for such difference.

3. The amount of money expended in each county, from the fund derived from the sale of state road bonds including the use of the reserve fund and the number of miles of road completed in each county from said funds and also the number of miles of road now advertised or under contract in each county.

SENATE CONCURRENT RESOLUTION NO. 8.

(Adopted April 14, 1923.)

Providing for the introduction of a bill.

Resolved by the Legislature of West Virginia, three-fourths of the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to authorize the board of education of the district of FoFrt Spring, in the county of Greenbrier, to issue and negotiate its certificates of indebtedness in the aggregate sum of thirty-five thousand dollars, bearing interest at the rate of six per centum per annum, and to use the moneys derived therefrom for the purpose of completing an addition to and the remodeling of the public graded school building situate in the city of Ronceverte in said district, and to lay a special levy of thirty cents for each year for three consecutive years, beginning with the year one thousand

nine hundred and twenty-three, on each one hundred dollars' valuation, of all taxable property in said district, and to apply all moneys raised thereby for the purpose of paying and retiring said certificates of indebtedness and providing for the receipt and disbursement of all moneys so raised.

HOUSE CONCURRENT RESOLUTION NO. 5.

(Adopted January 24, 1923.)

Authorizing the payment to the janitor, in advance of the appropriation therefor, compensation for his assistants.

HOUSE CONCURRENT RESOLUTION NO. 6.

(Adopted March 14, 1923.)

Raising a joint committee of the two houses to wait upon the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of the two houses consisting of two members, to be appointed by the President of the Senate, and three to be appointed by the Speaker of the House, be and the same is hereby raised, to wait upon the Governor and inform him that the legislature has re-assembled at the expiration of the constitutional recess, with a quorum of each house present, and is ready to receive any communication which His Excellency may be pleased to make.

HOUSE CONCURRENT RESOLUTION NO. 12.

(Adopted April 6, 1923.)

Providing for the introduction of a bill, as follows:

Resolved by the Legislature of West Virginia, three-fourths of all members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

A Bill to amend and re-enact section twenty-six of chapter fourteen of the acts of the legislature, one thousand nine hundred and five, at the regular session, as amended by chapter twenty-two of the acts of the legislature of one thousand nine hundred and twenty-one, at the regular session, relating to the incorporating of the town of Salem, and defining the powers of the city council thereof.

HOUSE CONCURRENT RESOLUTION NO. 18.

(Adopted April 16, 1923.)

Providing for the introduction of a bill, as follows:

Resolved by the legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

“A Bill to authorize the board of education of the district of Fort Spring in the county of Greenbrier, to issue and negotiate its certificates of indebtedness in the aggregate sum of thirty-five thousand dollars, bearing interest at the rate of six per centum per annum, and to use the moneys derived therefrom for the purpose of completing an addition to and the remodeling of the public grade school building situate in the city of Ronceverte in said district, and to lay a special levy of thirty cents for each year for three consecutive years, beginning with the year one thousand nine hundred and twenty-three, one each one hundred dollars' valuation of all taxable property in said district, and to apply all moneys raised thereby for the purpose of paying and retiring said certificates of indebtedness and providing for the receipt and disbursement of all moneys so raised.”

HOUSE CONCURRENT RESOLUTION NO. 21.

(Adopted April 17, 1923.)

Providing for the introduction of a bill, as follows:

Resolved by the legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature to introduce a bill with the following title:

A Bill to give the county court of Jackson county the power to employ an assistant prosecuting attorney.

HOUSE CONCURRENT RESOLUTION NO. 23.

(Adopted April 19, 1923.)

Providing for the introduction of a bill, as follows:

Resolved by the legislature of West Virginia, three-fourths of all the members elected to each house agreeing thereto:

That consent is hereby given by the legislature of West Virginia to introduce a bill with the following title:

A Bill authorizing the county court of Kanawha county to lay a levy of two and one-half cents on the hundred dollars' valuation of the taxable property of Kanawha county for the purpose of building a bridge at Clendenin.

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